

## MADRAS ACT NO. I OF 1932

PASSED BY THE LEGISLATIVE COUNCIL OF MADRAS.

[Received the assent of the Governor on the 3rd December 1931 and that of the Governor-General on the 25th December 1931, the assent of the Governor-General was first published in the "Fort St. George Gazette" of the 19th January 1932.]

*An Act to amend the Madras Suppression of Immoral Traffic Act, 1930, for certain purposes.*

WHEREAS it is expedient to amend the Madras Suppression of Immoral Traffic Act, 1930, for the purposes hereinafter appearing ;

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act ; It is hereby enacted as follows :—

1. This Act may be called the Madras Suppression of Immoral Traffic (Amendment) Act, 1931. *Short title.*

2. For sections 1 and 2 of the Madras Suppression of Immoral Traffic Act, 1930 (hereinafter referred to as the said Act), the following sections shall be substituted, namely :— *Substitution of new sections 1 and 2 of Madras Act V of 1930.*

“ 1. This Act may be called ‘ The Madras Suppression of Immoral Traffic Act, 1930.’ *Short title.*

“ 2. The Local Government may, from time to time, by notification in the *Fort St. George Gazette*, apply all or any of the provisions of this Act to the whole or any portion of the Presidency of Madras from such date as may be specified in the notification and may cancel or modify any such notification.” *Extent and commencement.*

3. In sub-section (ii) of section 6 of the said Act, for the words and figures “ before a Juvenile Court constituted under section 36 of the Madras Children Act, 1920 ”, the words and figures “ before a court established under sub-section (i) of section 36 of the Madras Children Act, 1920, or where no such court has been established, before a court sitting in the manner specified in sub-section (2) of that section ” shall be substituted. *Amendment of section 6, Madras Act V of 1930.*

## MADRAS ACT No. III OF 1932

PASSED BY THE LEGISLATIVE COUNCIL OF MADRAS.

[Received the assent of the Governor on the 3rd December 1931 and that of the Governor-General on the 7th January 1932, the assent of the Governor-General was first published in the "Fort St. George Gazette" of the 26th January 1932.]

*An Act to amend the Madras Prevention of Adulteration Act, 1918, for a certain purpose.*

MADRAS  
Act III of  
1918.

WHEREAS it is expedient to amend the Madras Prevention of Adulteration Act, 1918, for the purpose hereinafter appearing; It is hereby enacted as follows:—

1. This Act may be called the Madras Prevention of Adulteration (Amendment) Act.
2. For section 20 of the Madras Prevention of Adulteration Act, 1918, the following section shall be substituted, namely:—

“20. (1) The Local Government may make rules to carry out all or any of the purposes of this Act and not inconsistent therewith.

(2) In particular and without prejudice to the generality of the foregoing power, they may make rules—

(a) prescribing the classes or qualifications of persons to whom, and the conditions on which, the local executive officer may, under section 3, delegate his powers;

(b) determining the limits within which the local executive officer may exercise his powers, whether such limits are within or without the local area in respect of which he holds any public office;

(c) prescribing in the interests of public health the state in which utensils and vessels used for manufacturing, preparing or containing any food intended for sale shall be kept, and prohibiting the use of utensils and vessels made, in whole or in part, of materials likely to injure such food;

[PRICE, 1 a. 3 p.]

Amendment  
of section 20,  
Madras Act  
III of 1918.

Power of  
Local  
Government  
to make rules.

(d) prescribing the manner in which notice of any addition, admixture or deficiency shall be given to the purchaser of any article of food;

(e) prescribing standards of purity for milk, cream, butter, ghee, cheese or any food and determining what deficiency in any normal constituent of any of these articles or what addition of any extraneous matter or proportion of water in any such article or any preparation of the same shall for the purposes of this Act raise a presumption until the contrary is proved, that the milk, cream, butter, ghee, cheese, or food is not genuine or is injurious to health;

(f) prohibiting or regulating in the interests of public health

(i) the addition of water or other diluent or adulterant to any food;

(ii) the abstraction of any ingredient from any food; and

(iii) the sale of any food to which such addition or from which such abstraction has been made or which has been otherwise artificially treated;

(g) providing for the manner in which any receptacle containing dried, condensed, skinned, or separated milk is to be labelled or marked; and

(h) authorizing the persons taking samples of any food for the purpose of analysis under this Act to add preservatives to such sample for the purpose of maintaining it in a suitable condition for analysis and regulating the nature of such preservatives and the method of adding them.

3. In making any rule under clauses (c), (d), (f) or (g) of sub-section (2), the Local Government may provide that a breach thereof shall be punishable

(a) in the case of a first conviction with fine which may extend to one hundred rupees; and

(b) in the case of a subsequent conviction, with fine which may extend to five hundred rupees.

4. All rules made under this section shall be published in the *Fort St. George Gazette* and upon such publication shall have effect as if enacted in this Act.

## MADRAS ACT No. IV of 1932

PASSED BY THE LEGISLATIVE COUNCIL OF MADRAS.

[Received the assent of the Governor on the 20th March 1932 and that of the Governor-General on the 5th April 1932, the assent of the Governor-General was first published in the "Fort St. George Gazette" on the 19th April 1932.]

*An Act to amend the Madras Local Boards Act, 1920, for certain purposes.*

WHEREAS it is expedient further to amend the Madras Local Boards Act, 1920, for the purposes hereinafter appearing ; It is hereby enacted as follows :—

1. This Act may be called the Madras Local Boards <sup>Short title.</sup> (Amendment) Act, 1932.

2. In section 3 of the Madras Local Boards Act, 1920 (hereinafter referred to as the said Act)— <sup>Amendment of section 3, Madras Act XIV of 1920.</sup>  
(i) for clause \*(7), the following clause shall be substituted, namely :—

“(7) ‘district’ means the revenue district referred to in sub-section (1) of section 3-A or the local area constituted into a district under sub-section (2) of that section, as altered by the notifications, if any, issued under sub-section (3) of the same section”;

(ii) (a) clauses (19A) and (19B) shall be relettered (19B) and (19C) respectively and the following shall be inserted as clause (19A), namely :—

“(19A) ‘revenue district’ means any local area which for the purposes of revenue administration, is under the charge of a district collector, after excluding therefrom all areas included in—

(a) the City of Madras including Fort St. George with the glacis ;

## MADRAS ACT No. IV of 1932

(b) municipalities constituted under the Madras <sup>Madras Act V of 1920.</sup> District Municipalities Act, 1920;

(c) cantonments constituted under the Canton- <sup>Act II of 1924.</sup> ments Act, 1924; and

(d) Scheduled districts as defined in the Scheduled Districts Act, 1874"; and <sup>Act XIV of 1874.</sup>

(b) in clauses (19B) and (19C) as so relettered, for the words, letters and figure 'referred to in sub-clauses (a) to (e) of clause (7)', the words and figure 'which are not included in any district as defined in clause (7)' shall be substituted.

Amendment  
of the head-  
ing of Chap-  
ter II and  
insertion of  
new section  
3A in Madras  
Act XIV of  
1920.

### 3. In Chapter II of the said Act—

(i) for the heading "Taluks and Villages", the heading "Districts, Taluks and Villages" shall be substituted; and

(ii) before section 4, the following section shall be inserted, namely :—

Districts.

"3A. (1) Save as otherwise provided in this section, every local area which on the first day of February 1932 was a revenue district shall be deemed to be a district for the purposes of this Act.

(2) The Local Government may, in special circumstances, by notification, declare any local area whether in the same revenue district or not, to be a district for the purposes of this Act and specify the name of the district.

(3) The Local Government may, by notification,—

(i) exclude from any district any local area comprised therein; or

(ii) include in any district any local area in the vicinity thereof; or

(iii) cancel a notification issued under sub-section (2); or

(iv) alter the name of any district

(4) Before issuing a notification under sub-section (2) or sub-section (3), the Local Government shall give the district board or boards which will be affected by the issue of such notification a reasonable opportunity for showing cause against the proposal and shall consider the explanations and objections, if any, of such district board or boards.

(5) Every notification issued under sub-section (2) or clause (i) or clause (ii) of sub-section (3) shall contain a statement of the reasons therefor and shall be laid on the table of the Legislative Council.

(6) If any district comprises only part of a revenue district or two or more revenue districts or parts of two or more revenue districts, the Local Government may, by notification, declare which officer shall be considered to be the district collector in respect of that district for the purposes of this Act."

4. In sub-section (3) of section 6 of the said Act, for the words and figures 'by the name of the district or revenue taluk or the name of the taluk or village which is specified in the notification under section 4 or 5', the words, figures and letter 'by the name of the revenue district or revenue taluk or the name of the district, taluk or village, specified in the notification under section 3A, 4 or 5' shall be substituted.

5. In section 240 of the said Act—

(i) in sub-section (2), the words 'revenue district or shall be omitted and for the words and figures 'section 4 or 5' the words, figures and letter 'section 3A, 4 or 5' shall be substituted; and

(ii) in clause (b) of sub-section (8), for the words and figures 'declaring any local area to be a taluk or village under section 4 or 5', the words, figures and letter 'declaring any local area to be a district, taluk or village under section 3A, 4 or 5' and for the words 'taluk board or panchayat', the words 'district board, taluk board or panchayat' shall be substituted.

## MADRAS ACT No. VI OF 1932

PASSED BY THE LEGISLATIVE COUNCIL OF MADRAS.

[Received the assent of the Governor on the 9th May 1932 and that of the Governor-General on the 16th June 1932, the assent of the Governor-General was first published in the "Fort St. George Gazette" on the 5th July 1932.]

An Act to consolidate and amend the law relating to co-operative societies in the Presidency of Madras.

WHEREAS it is expedient further to facilitate the formation and working of co-operative societies for the promotion of thrift, self-help and mutual aid among agriculturists and other persons with common economic needs so as to bring about better living, better business and better methods of production and for that purpose to consolidate and amend the law relating to co-operative societies in the Presidency of Madras.

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act; It is hereby enacted as follows:—

### PRELIMINARY.

1. (1) This Act may be called the Madras Co-operative Societies Act, 1932. Short title and extent.

(2) It extends to the whole of the Presidency of Madras.

2. In this Act, unless there is anything repugnant in Definitions. the subject or context,—

(a) "by-laws" means the registered by-laws for "By-laws." the time being in force and includes a registered amendment of the by-laws;

(b) "committee" means the governing body of "Committee" a registered society to whom the management of its affairs is entrusted;

(c) "financing bank" means a registered "Financing bank." society the main object of which is to lend money to other registered societies;

[PRICES, 7 annas.]

“ Member.”

(d) “ member ” includes a person joining in the application for the registration of a society and a person admitted to membership after registration in accordance with the by-laws and any rules;

“ Officer ”

(e) “ officer ” includes a president, vice-president, chairman, vice-chairman, secretary, assistant secretary, treasurer, member of committee, and any other person empowered under the rules or the by-laws to give directions in regard to the business of the society;

“ Registered society ”

(f) “ registered society ” means a society registered or deemed to be registered under this Act;

“ Registrar.”

(g) “ Registrar ” means a person appointed to perform the duties of a Registrar of Co-operative Societies under this Act; and

“ Rules.”

(h) “ rules ” means rules made under this Act.

### REGISTRATION.

The Registrar.

3. The Local Government may appoint a person to be Registrar of Co-operative Societies for the Presidency of Madras or any portion of it and may appoint persons to assist such Registrar, and may, by general or special order, confer on any such persons all or any of the powers of a Registrar under this Act.

Societies which may be registered.

4. Subject to the provisions of this Act a society which has as its object the promotion of the economic interests of its members in accordance with co-operative principles, or a society established with the object of facilitating the operations of such a society, may be registered under this Act with or without limited liability:

Provided that unless the Local Government by general or special order otherwise directs—

(i) the liability of a society of which a member is a registered society shall be limited; and

(ii) the liability of a society of which the primary object is the creation of funds to be lent to its members, and of which the majority of the members are agriculturists, and of which no member is a registered society, shall be unlimited and the members of such a society shall, on its liquidation, be jointly and severally liable for and in respect of all its obligations.

5. (1) Subject to the proviso to section 4 and to any rules made in this behalf, a registered society may, with the previous sanction of the Registrar, change its liability from limited to unlimited or from unlimited to limited: Change of liability.

Provided that—

(i) the society shall give notice in writing of its intention to change its liability to all its members and creditors;

(ii) any member or creditor shall, notwithstanding any by-law or contract to the contrary, have the option of withdrawing his shares, deposits or loans, as the case may be, within three months of the service of such notice on him and the change shall not take effect until all such claims have been satisfied; and

(iii) any member or creditor, who does not exercise his option within the period aforesaid, shall be deemed to have assented to the change.

(2) Notwithstanding anything contained in the proviso to sub-section (1) the change shall take effect at once if all the members and creditors assent thereto.

6. Where the liability of the members of a society is limited by shares, no member other than a registered society shall

(a) hold more than such portion of the share capital of the society, subject to a maximum of one-fifth, as may be prescribed by the rules; or

(b) have or claim any interest in the shares of the society, exceeding one thousand rupees.

7. (1) No society, other than a society of which a member is a registered society, shall be registered under this Act which does not consist of at least ten persons who have attained the age of majority and, where the object of the society is the creation of funds to be lent to its members, unless such persons—

(a) reside in the same town or village or in the same group of villages; or

(b) save where the Registrar otherwise directs, are members of the same tribe, class, caste or occupation.

(2) The word 'limited' shall be the last word in the name of every society with limited liability registered under this Act.

Restrictions on interest of member of society with limited liability and a share capital.

Conditions of registration.

Power of  
Registrar  
to decide  
certain  
questions.

8. When any question arises whether for the purposes of this Act a person is an agriculturist or a non-agriculturist, or whether any person is a resident in a town or village or group of villages, or whether two or more villages shall be considered to form a group, or whether any person belongs to any particular tribe, class, caste or occupation, the question shall be decided by the Registrar, whose decision shall be final.

Application  
for registra-  
tion.

9..(1) For purposes of registration an application to register shall be made to the Registrar.

(2) The application shall be signed—

(a) in the case of a society of which no member is a registered society, by at least ten persons qualified in accordance with the requirements of sub-section (1) of section 7; and

(b) in the case of a society of which a member is a registered society, by a duly authorized person on behalf of every such registered society, and, where all the members of the society are not registered societies, by ten other members or, when there are less than ten other members, by all of them.

(3) The application shall be accompanied by a copy of the proposed by-laws of the society, and the persons by whom or on whose behalf such application is made shall furnish such information in regard to the society as the Registrar may require.

Registration.

10. If the Registrar is satisfied that a society has complied with the provisions of this Act and the rules and that its proposed by-laws are not contrary to this Act or to the rules, he may register the society and its by-laws. In case of refusal, an appeal shall lie to the Local Government within two months from the date of the issue of the order of refusal by registered post.

Evidence of  
registration.

11. A certificate of registration signed by the Registrar shall be conclusive evidence that the society therein mentioned is duly registered unless it is proved that the registration of the society has been cancelled.

Amendment  
of the by-laws  
of registered  
society.

12. (1) No amendment of the by-laws of a registered society shall be valid until the same has been registered under this Act, for which purpose a copy of the amendment shall be forwarded to the Registrar.

(2) If the Registrar is satisfied that any amendment of the by-laws is not contrary to this Act or to the rules,

he may register the amendment. In case of refusal, an appeal shall lie to the Local Government within two months from the date of the issue of the order of refusal by registered post.

(3) When the Registrar registers an amendment of the by-laws of a registered society, he shall issue to the society a copy of the amendment certified by him, which shall be conclusive evidence that the same is duly registered.

13. (a) (1) Any registered society may, at a meeting Division and amalgamation of societies. of its general body specially called for the purpose of which at least seven clear days' notice shall be given to its members, resolve to divide itself into two or more societies. The resolution (hereinafter in this sub-section referred to as the preliminary resolution) shall contain proposals for the division of the assets and liabilities of the society among the new societies into which it is proposed to divide it and may prescribe the area of operations of, and specify the members who will constitute, each of the new societies.

(2) (i) A copy of the preliminary resolution shall be sent to all the members and creditors of the society.

(ii) Any member of the society may, notwithstanding any by-law to the contrary, by notice given to the society within a period of three months from his receipt of the preliminary resolution, intimate his intention not to become a member of any of the new societies.

(iii) Any creditor of the society may, notwithstanding any agreement to the contrary, by notice given to the society within the said period, intimate his intention to demand a return of the amount due to him.

(3) After the expiry of three months from the receipt of the preliminary resolution by all the members and creditors of the society, a meeting of the general body of the society, of which at least fifteen clear days' notice shall be given to its members, shall be convened for considering the preliminary resolution. If, at such meeting, the preliminary resolution is confirmed by a resolution passed by a majority of not less than two-thirds of the members present, either without changes or with such changes as, in the opinion of the Registrar, are not material, he may, subject to the provisions of clause

(5) and section 10, register the new societies and the by-laws thereof. On such registration the registration of the old society shall be deemed to have been cancelled.

The opinion of the Registrar as to whether the changes made in the preliminary resolution are or are not material shall be final and no appeal shall lie therefrom.

(4) At the meeting referred to in clause (3) provision shall be made by another resolution for

(i) the repayment of the share capital of all the members who have given notice under sub-clause (ii) of clause (2); and

(ii) the satisfaction of the claims of all the creditors who have given notice under sub-clause (iii) of clause (2):

Provided that no member or creditor shall be entitled to such repayment or satisfaction until the preliminary resolution is confirmed as provided in clause (3).

(5) If, within such time as the Registrar considers reasonable, the share capital of the members referred to in clause (4) is not repaid or the claims of the creditors referred to in that clause are not satisfied, the Registrar may refuse to register the new societies.

(6) The registration of the new societies shall be a sufficient conveyance to vest the assets and liabilities of the original society in the new societies in the manner specified in the preliminary resolution as confirmed under clause (3).

(b) (1) Two or more registered societies may, at meetings of their respective general bodies specially called for the purpose of which at least seven clear days' notice shall be given to their respective members, resolve to amalgamate into one society. This resolution is herein-after in this sub-section referred to as the preliminary resolution.

(2) (i) A copy of the preliminary resolution of each society shall be sent to all the members and creditors thereof.

(ii) Any member of any such society may, notwithstanding any by-law to the contrary, by notice given to the society of which he is a member within a period of three months from his receipt of the preliminary resolution, intimate his intention not to become a member of the new society.

(iii) Any creditor of any such society may, notwithstanding any agreement to the contrary, by notice given to the society of which he is a creditor within the said period, intimate his intention to demand a return of the amount due to him.

(3) After the expiry of three months from the receipt of the preliminary resolution by all the members and creditors of all the societies, a joint meeting of the members of such societies of which at least fifteen clear days' notice shall be given to them, shall be convened for considering the preliminary resolution. If, at such meeting, the preliminary resolution is confirmed by a resolution passed by a majority of not less than two-thirds of the members present, either without changes or with such changes as, in the opinion of the Registrar, are not material, he may, subject to the provisions of clause (5) and section 10, register the new society and the by-laws thereof. On such registration, the registration of the old societies shall be deemed to have been cancelled.

The opinion of the Registrar as to whether the changes made in the preliminary resolution are or are not material shall be final and no appeal shall lie therefrom.

(4) At the joint meeting referred to in clause (3), provision shall be made by another resolution for—

(i) the repayment of the share capital of all the members who have given notice under sub-clause (ii) of clause (2); and

(ii) the satisfaction of the claims of all the creditors who have given notice under sub-clause (iii) of clause (2):

Provided that no member or creditor shall be entitled to such repayment or satisfaction until the preliminary resolution is confirmed as provided in clause (3).

(5) If, within such time as the Registrar considers reasonable, the share capital of the members referred to in clause (4) is not repaid or the claims of the creditors referred to in that clause are not satisfied, the Registrar may refuse to register the new society.

(6) The registration of the new society shall be a sufficient conveyance to vest in it all the assets and liabilities of the original societies.

## RIGHTS AND LIABILITIES OF MEMBERS.

Member not  
to exercise  
rights till  
due payment  
made.

14. (1) No member of a registered society shall, save as otherwise provided in sub-section (2), exercise the rights of a member unless or until he has made such payment to the society in respect of membership or acquired such interest in the society as may be prescribed by the rules and by-laws.

(2) In the case of a society registered after the commencement of this Act, the persons who have signed the application to register the society may elect a committee to conduct the affairs of the society for a period of three months from the date of registration or for such further period as the Registrar may consider desirable :

Provided that the committee shall cease to function as soon as the members of the society have elected a committee in accordance with its by-laws.

General  
meetings.

15. (1) The committee may at any time call a general meeting of the society and shall call such a meeting within one month after receipt of a requisition in writing from the Registrar or from a financing bank to which the society is indebted or from such number of members or proportion of the total number of members as may be specified in the by-laws of the society.

(2) If a general meeting is not called in accordance with such requisition, the Registrar shall have power to call a general meeting of the society himself.

Votes of  
members

16. (1) No member of any registered society shall have more than one vote in the affairs of the society provided that in the case of an equality of votes the Chairman shall have a casting vote.

(2) A registered society which has invested any part of its funds in the shares of another registered society may appoint any of its members not disqualified for such appointment under any rules prescribed in that behalf to vote in the affairs of such other registered society.

Restrictions  
on transfer  
of share or  
interest.

17. (1) The transfer of the share or interest of a member in the capital of a registered society shall be subject to such conditions as to maximum holding as may be prescribed by this Act or by the rules.

(2) In the case of a society registered with unlimited liability a member shall not transfer any share.

held by him or his interest in the capital of the society or any part thereof unless—

(a) he has held such share or interest for not less than one year; and

(b) the transfer is made to the society or to a member of the society.

#### DUTIES OF REGISTERED SOCIETIES.

18. Every registered society shall have an address, <sup>Address of societies.</sup> registered in accordance with the rules, to which all notices and communications may be sent, and shall send to the Registrar notice of every change thereof.

19. Every registered society shall keep a copy of <sup>Copy of Act,</sup> this Act and of the rules governing such society and of its <sup>rules and by-laws to be</sup> by-laws open to inspection free of charge at all reasonable <sup>open to inspection</sup> times at the registered address of the society.

#### PRIVILEGES OF REGISTERED SOCIETIES.

20. The registration of a society shall render it a <sup>Societies to be bodies corporate</sup> body corporate by the name under which it is registered, with perpetual succession and a common seal, and with power to hold property, to enter into contracts, to institute and defend suits and other legal proceedings and to do all things necessary for the purposes for which it was constituted.

21. (1) Subject to the prior claim, if any, of the <sup>Prior claim of society.</sup> Government in respect of land revenue or any money recoverable as land revenue or of a landlord in respect of rent or any money recoverable as rent, a registered society shall be entitled in priority to other creditors to enforce any outstanding demand due to the society from a member or past or deceased member—

(a) in respect of the supply of seed or manure or of the loan of money for the purchase of seed or manure upon the crops or other agricultural produce of such member or person at any time within eighteen months from the date of such supply or loan;

(b) in respect of the supply of cattle, fodder for cattle, agricultural or industrial implements or machinery, or raw materials for manufacture, or of the loan of money for the purchase of any of the foregoing things—upon any such things so supplied, or purchased in whole or in part from any such loan, or on any articles manufactured from raw materials so supplied or purchased.

(2) The priority created by sub-section (1) in favour of a registered society shall be available against any claim of the Government arising from a loan granted under the Land Improvements Loans Act, 1883, after XIX of 1883. the grant of the loan by the society.

Charge and  
set-off in  
respect of  
shares or  
interest of  
member.

22. A registered society shall have a charge upon the share or interest in the capital and on the deposits of a member or past or deceased member and upon any dividend, bonus or profits payable to a member or past member or the estate of a deceased member in respect of any debt due from such member or past member or the estate of such deceased member to the society, and may set off any sum credited or payable to a member or past or deceased member or the estate of a deceased member in or towards payment of any such debt.

Shares or  
interest not  
liable to  
attachment.

23. Subject to the provisions of section 22, the share or interest of a member in the capital of a registered society shall not be liable to attachment or sale under any decree or order of a Court of Justice in respect of any debt or liability incurred by such member, and neither the Official Assignee under the Presidency Towns Insolvency III of 1909. Act, 1909, nor a Receiver under the Provincial Insolvency V of 1920. Act, 1920, shall be entitled to or have any claim on such share or interest.

Transfer of  
interest on  
death of  
member.

24. (1) Subject to the provisions of section 22, a registered society may on the death of a member transfer his share or interest in the capital to the person nominated in accordance with the rules made in this behalf, or, if there is no person so nominated, to such person as may appear to the committee to be the heir or legal representative of the deceased member, or pay to such nominee, heir or legal representative, as the case may be, a sum representing the value of such member's share or interest, as ascertained in accordance with the rules or by-laws :

Provided that—

(i) in the case of a society with unlimited liability, such nominee, heir or legal representative, as the case may be, may require payment by the society of the value of the share or interest of the deceased member ascertained as aforesaid; and

(ii) in the case of a society with limited liability, the society shall transfer the share or interest of the deceased member to such nominee, heir, legal representative, as the case may be, being qualified in accordance with the rules and by-laws for membership of the society, or on his application within one month of the death of the deceased member to any person specified in the application who is so qualified.

(2) Subject as aforesaid, a registered society may pay all other moneys due to the deceased member from the society to such nominee, heir or legal representative, as the case may be.

(3) All transfers and payments made by a registered society in accordance with the provisions of this section shall be valid and effectual against any demand made upon the society by any other person.

25. The liability of a past member or of the estate of a deceased member for the debts of a registered society as they existed on the date of his ceasing to be a member or of his decease, as the case may be, shall continue for a period of two years from such date.

26. Any register or list of members or shares kept by any registered society shall be *prima facie* evidence of any of the following particulars entered therein:—

(a) the date on which the name of any person was entered in such register or list as a member; and

(b) the date on which any such person ceased to be a member.

27. (1) A copy of any entry in a book of a registered society regularly kept in the course of business shall, if certified in such manner as may be prescribed by the rules, be received in any suit or legal proceedings as *prima facie* evidence of the existence of such entry, and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry itself is admissible.

(2) No officer or liquidator of a registered society and no officer in whose office the books of a registered society are deposited after liquidation shall, in any legal proceedings to which the society or the liquidator is not a party, be compelled to produce any of the society's books the contents of which can be proved under subsection (1), or to appear as a witness to prove the matters,

transactions and accounts therein recorded, unless by order of the court or the arbitrator made for special cause.

Power to attach and sell defaulter's property.

28. Whenever a decree or order of a civil court, a decision or an award of the Registrar or arbitrator or an order of the Registrar or liquidator is obtained by a registered society for the realization of money, the Registrar or any person subordinate to him empowered by the Registrar in this behalf may, subject to such rules as may be prescribed by the Local Government, recover the amount due under such decree, award or order together with the interest, if any, due thereon and the costs of process by the attachment and sale of the property of the person against whom such decree, decision, award or order is obtained.

Exemption from compulsory registration of instruments relating to shares and debentures of registered society.

29. Nothing in clauses (b) and (c) of sub-section (1) of section 17 of the Indian Registration Act, 1908, shall apply to—

(1) any instrument relating to shares in a registered society, notwithstanding that the assets of such society consist in whole or in part of immovable property; or  
 (2) any debenture issued by any such society and not creating, declaring, assigning, limiting or extinguishing any right, title or interest to or in immovable property except in so far as it entitles the holder to the security afforded by a registered instrument whereby the society has mortgaged, conveyed or otherwise transferred the whole or part of its immovable property or any interest therein to trustees upon trust for the benefit of the holders of such debentures; or

(3) any endorsement upon or transfer of any debenture issued by any such society.

Power to exempt from income-tax, stamp duty and registration fees.

30. (1) The Governor-General in Council by notification in the *Gazette of India* may, in the case of any registered society or class of registered societies, remit the income-tax payable in respect of the profits of the society, or of the dividends or other payments received by the members of the society on account of profits.

(2) The Local Government, by notification in the *Fort St. George Gazette*, may in the case of any registered society or class of registered societies remit—

(a) the stamp duty with which, under any law for the time being in force, instruments executed by or on behalf of a registered society or by an officer or member and relating to the business of such society or any

class of such instruments or decisions, awards or orders of the Registrar or arbitrators under this Act are respectively chargeable; and

(b) any fee payable under the law of registration for the time being in force.

31. Notwithstanding anything contained in any other <sup>Government</sup> enactment, the Local Government may, subject to such <sup>aid to registered societies.</sup> rules as may be prescribed in this behalf, grant loans to, take shares in, or give financial assistance in any other form to any registered society.

#### PROPERTY AND FUNDS OF REGISTERED SOCIETIES.

32. (1) A registered society shall not make a loan to <sup>Restrictions on loans.</sup> any person other than a member:

Provided that, with the general or special sanction of the Registrar, a registered society may make loans to another registered society.

(2) Save with the sanction of the Registrar, a registered society shall not lend money on the security of movable property other than agricultural produce.

(3) Notwithstanding anything contained in sub-sections (1) and (2), a registered society may make a loan to a depositor on the security of his deposit.

(4) The Local Government may, by general or special order, prohibit or restrict the lending of money on mortgage of immovable property by any registered society or class of registered societies.

33. A registered society shall receive deposits and <sup>Restrictions on borrowings.</sup> loans only to such extent and under such conditions as may be prescribed by the rules or the by-laws of the society.

34. (1) Subject to the provisions of sub-section (4) <sup>Investment of funds.</sup> of section 32, a registered society may invest or deposit its funds—

(a) in the Government Savings Bank, or

(b) in any of the securities specified in section 20 of the Indian Trusts Act, 1882, or

(c) in the shares or securities of any other registered society provided that no such investment shall be made in the shares of any society with unlimited liability, or

(d) with any bank or person carrying on the business of banking, approved for this purpose by the Registrar, or

(e) in any other mode permitted by the rules.

(2) Any investments or deposits made before the commencement of this Act which would have been valid if this Act had been in force are hereby ratified and confirmed.

Funds not to be divided among members.

35. No part of the funds of a registered society shall be divided by way of bonus or dividend or otherwise among its members :

Provided that payment may be made to a member for work done by him as Secretary or as clerk on such scale as may be prescribed by the by-laws :

Provided also that after at least one-fourth of the net profits in any year have been carried to a reserve fund, payments from the remainder or such profits and from any profits of past years available for distribution may be made—

(i) as a bonus to a member for any specific service rendered by him to the society including work done as Secretary or as clerk, and

(ii) among the members to such extent and under such conditions as may be prescribed by the rules or by-laws.

Contribution to charitable purpose.

36. Any registered society may, after one-fourth of the net profits in any year has been carried to a reserve fund, contribute an amount not exceeding 10 per cent of the remaining net profits to any charitable purpose as defined in section 2 of the Charitable Endowments Act, 1890.

VI of 1890.

Audit.

37. (1) The Registrar shall audit or cause to be audited by some person authorized by him by general or special order in writing in this behalf the accounts of every registered society once at least in every year.

(2) The audit under sub-section (1) shall include an examination of overdue debts, if any, the verification of the cash balance and securities and a valuation of the assets and liabilities of the society.

(3) The Registrar or the person authorized by him under sub-section (1) shall, at all reasonable times, have free access to the books, accounts, documents, securities,

cash and other properties belonging to or in the custody of the society and may summon any person in possession or responsible for the custody of any such books, accounts, documents, securities, cash or other properties to produce the same at any place at the headquarters of the society or any branch thereof.

(4) Every officer or member of the society shall furnish such information in regard to the transactions and working of the society as the Registrar or the person authorized by him under sub-section (1) may require.

#### INQUIRY AND INSPECTION.

38. (1) The Registrar may of his own motion, and Inquiry by Registrar. shall on the request of the Collector, or on the application of a majority of the committee or of not less than one-third of the members, hold an inquiry, or direct some person authorized by him by order in writing in this behalf to hold an inquiry into the constitution, working and financial condition of a registered society.

(2) The Registrar or the person authorized by him under sub-section (1) shall have the following powers, namely :—

(a) He shall, at all reasonable times, have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society and may summon any person in possession or responsible for the custody of any such books, accounts, documents, securities, cash or other properties to produce the same at any place at the headquarters of the society or any branch thereof.

(b) He may summon any person who he has reason to believe has knowledge of any of the affairs of the society to appear before him at any place at the headquarters of the society or any branch thereof and may examine such person on oath.

(c) (i) He may, notwithstanding any rule or by-law prescribing the period of notice for a general meeting of the society, require the officers of the society to call a general meeting at such time and place at the headquarters of the society or any branch thereof and to determine such matters as may be directed by him. If the officers of the society refuse or fail to call such a meeting, he shall have power to call it himself.

(ii) Any meeting called under clause (i) shall have all the powers of a general meeting called under the by-laws of the society and its proceedings shall be regulated by such by-laws.

(3) When an inquiry is made under this section, the Registrar shall communicate the result of the inquiry to the financing bank, if any, to which the society is indebted.

Inspection of  
books by  
Registrar.

39. (1) The Registrar may, on the application of a creditor of a registered society, inspect or direct some person authorized by him in this behalf by a general or special order in writing to inspect the books of the society and the Registrar or the person so authorized shall have all the powers of the Registrar when holding an inquiry under section 38.

(2) No inspection shall be made or directed under sub-section (1) unless the creditor—

(a) satisfies the Registrar that the debt is a sum then due, and that he has demanded payment thereof and has not received satisfaction within a reasonable time; and

(b) deposits with the Registrar such sum as security for the costs of the proposed inspection as the Registrar may require.

(3) Where an inspection is made under sub-section (1), the Registrar shall communicate the results of such inspection to the creditor and to the financing bank, if any, to which the society is indebted.

Inspection of  
books by  
financing  
bank.

40. A financing bank shall have the right to inspect the books of any registered society which is indebted to it. The inspection may be made either by an officer of the financing bank or by a member of its paid staff certified by the Registrar as competent to undertake such inspection. The officer or member so inspecting shall at all reasonable times have free access to the books, accounts, documents, securities, cash and other properties belonging to or in the custody of the society and may also call for such information, statements and returns as may be necessary to ascertain the financial condition of the society and the safety of the sums lent to it by the financing bank.

41. Where an inquiry is held under section 38 or an inspection is made under section 39, the Registrar may after giving the parties an opportunity to be heard, apportion the costs, or such part of the costs as he may think right, between the society, the members or creditor demanding an inquiry or inspection, the officers or former officers of the society. Costs may also be awarded by the Registrar to the financing bank in the case of inspection under section 40, by the financing bank.

42. Any sum awarded by way of costs under section 41 may be recovered as if it were an arrear of land revenue.

#### SUPERSESSION OF COMMITTEE OF SOCIETY.

43. (1) If, in the opinion of the Registrar, the committee of any registered society is not functioning properly, he may, after giving an opportunity to the committee to state its objections, if any, by order in writing, dissolve the committee and appoint a suitable person or persons to manage the affairs of the society for a specified period not exceeding two years. The period specified in such order may, at the discretion of the Registrar, be extended from time to time provided that such order shall not remain in force for more than four years in the aggregate.

(2) The person or persons so appointed shall have power, subject to the control of the Registrar, to recover the assets and discharge the liabilities of the society and take such other action as may be required in its interests.

(3) The Registrar may fix the remuneration payable to the person or persons so appointed. The amount of such remuneration and the other costs, if any, incurred in the management of the society, shall be payable from its funds.

(4) The person or persons so appointed shall, at the expiry of the period of his or their appointment, arrange for the constitution of a new committee in accordance with the by-laws of the society.

(5) Before taking any action under sub-section (1) in respect of any society, the Registrar shall—

(i) if the society is indebted to a financing bank, consult such bank regarding such action and the provision to be made for the management of the affairs of the society; and

(ii) if the society is a financing bank, obtain the previous concurrence of the Madras Provincial Co-operative Bank to the taking of such action.

(6) Nothing in this section shall be deemed to affect the power of the Registrar to cancel the registration of the society under section 44.

#### DISSOLUTION OF SOCIETY.

##### Dissolution.

44. (1) If the Registrar, after an inquiry has been held under section 38 or after an inspection has been made under section 39 or section 40 or on receipt of an application made by three-fourths of the members of a registered society, is of opinion that the society ought to be dissolved, he may by order in writing cancel the registration of the society. A copy of the order shall forthwith be communicated to the society by registered post.

(2) Any member of the society may, within two months from the date of the order made under sub-section (1), appeal to the Local Government from such order.

(3) Where no appeal is presented within two months from the making of an order cancelling the registration of the society, the order shall take effect on the expiry of that period.

(4) Where an appeal is presented within two months, the order shall not take effect until it is confirmed by the Local Government and such confirmation is communicated to the society by registered post.

##### Cancellation of registration of society.

45. Where it is a condition of the registration of a society that it should consist of at least ten members who have attained the age of majority the Registrar may, by order in writing, cancel the registration of the society if at any time it is proved to his satisfaction that the number of the members has been reduced to less than ten such members.

##### Effect of cancellation of registration.

46. Where the registration of a society is cancelled, the society shall cease to exist as a corporate body—

(a) in the case of cancellation in accordance with the provisions of section 44, from the date the order of cancellation takes effect;

(b) in the case of cancellation in accordance with the provisions of section 45, from the date of the order

47. (1) Where the registration of a society is cancelled under section 44 or section 45, the Registrar may appoint any person to be liquidator of the society.

(2) Subject to any rules that may be made under this Act, the whole of the assets of the society shall, on the appointment of a liquidator under sub-section (1), vest in such liquidator and he shall have power to realize such assets by sale or otherwise.

(3) Such liquidator shall also have power, subject to the control of the Registrar—

(a) to institute and defend suits and other legal proceedings on behalf of the society by his name of office;

(b) to determine from time to time the contribution to be made or remaining to be made by the members or past members or by the estates or nominees, heirs or legal representatives of deceased members or by any officers or former officers, to the assets of the society, such contribution including debts due from such members or persons;

(c) to investigate all claims against the society and subject to the provisions of this Act to decide questions of priority arising between claimants;

(d) to pay claims against the society (including interest up to the date of cancellation of registration) according to their respective priorities, if any, in full or rateably, as the assets of the society permit; the surplus, if any, remaining after payment of the claims being applied in payment of interest from the date of such cancellation at a rate fixed by him but not exceeding the contract rate in any case;

(e) to determine by what persons and in what proportions the costs of the liquidation are to be borne;

(f) to give such directions in regard to the collection and distribution of the assets of the society as may appear to him to be necessary for winding up the affairs of the society; and

(g) to carry on the business of the society so far as may be necessary for the beneficial winding up of the same.

(4) Subject to any rules that may be made under this Act, a liquidator appointed under this section shall, in so far as such powers are necessary for carrying out the purposes of this section, have power to summon and

enforce the attendance of witnesses and to compel the production of any books, accounts, documents, securities, cash or other properties belonging to or in the custody of the society by the same means and (so far as may be) in the same manner as is provided in the case of a civil court under the Code of Civil Procedure, 1908. <sup>V of 1908</sup>

(5) Any sum ordered under this section to be recovered as a contribution to the assets of the society or as costs of liquidation may be recovered, on a requisition being made in this behalf to the Collector by the Registrar, in the same manner as arrears of land revenue.

(6) Save as provided in sub-section (5), orders made under this section shall, on application, be enforced by any civil court having local jurisdiction in the same manner as a decree of such court.

(7) When the affairs of the society have been wound up, the liquidator shall deposit the records of the society in such place as the Registrar may direct.

(8) Any person aggrieved by any order of the liquidator may appeal to the Registrar against such order within two months from the date of the issue of the order by registered post.

**Bar of suit  
in certain  
cases.**

48. Save in so far as is expressly provided in this Act, no civil court shall take cognizance of any matter connected with the winding up or dissolution of a society under this Act, and when a liquidator has been appointed no suit or other legal proceeding shall lie or be proceeded with against the society except by leave of the Registrar and subject to such terms as he may impose.

#### SURCHARGE AND ATTACHMENT.

**Surcharge**

49. (1) Where in the course of an audit under section 37 or an inquiry under section 38 or an inspection under section 39 or the winding up of a society, it appears that any person who has taken part in the organization or management of the society or any past or present officer of the society has misappropriated or fraudulently retained any money or other property or been guilty of breach of trust in relation to the society, the Registrar may, of his own motion or on the application of the committee or liquidator or of any creditor or contributory, examine into the conduct of such person or officer and make an order requiring him to repay or restore the money or property or any part thereof with interest at such

rate as the Registrar thinks just or to contribute such sum to the assets of the society by way of compensation in respect of the misappropriation, fraudulent retainer or breach of trust as the Registrar thinks just.

(2) The order of the Registrar under sub-section (1) shall be final unless it is set aside by the District Court having jurisdiction over the area in which the headquarters of the society are situated or if the headquarters of the society are situated in the City of Madras, by the City Civil Court, on application made by the party aggrieved within three months of the date of receipt of the order by him.

(3) Any sum ordered under this section to be repaid to a society or recovered as a contribution to its assets may be recovered on a requisition being made in this behalf to the Collector by the Registrar in the same manner as arrears of land revenue.

(4) This section shall apply notwithstanding that such person or officer may have incurred criminal liability by his act.

50. Where the Registrar is satisfied on the application of the liquidator or otherwise that any person with <sup>Attachment</sup> <sub>of property.</sub> intent to defeat or delay the execution of any order that may be passed against him under clause (b) of sub-section (3) of section 47 or section 49—

(a) is about to dispose of the whole or any part of his property; or

(b) is about to remove the whole or any part of his property from the local limits of the jurisdiction of the Registrar,

the Registrar may, unless adequate security is furnished, direct the conditional attachment of the said property or such part thereof as he thinks necessary and such attachment shall have the same effect as if it had been made by a competent civil court.

#### ARBITRATION.

51. (1) If any dispute touching the business of a registered society (other than a dispute regarding disciplinary action taken by the society or its committee against a paid servant of the society) arises:—

(a) among members, past members and persons claiming through members, past members and deceased members, or

(b) between a member, past member or person claiming through a member, past member or deceased member and the society, its committee or any officer, agent or servant of the society, or

(c) between the society or its committee and any officer, agent or servant of the society; or

(d) between the society and any other registered society,

such dispute shall be referred to the Registrar for decision.

*Explanation.*—A claim by a registered society for any debt or demand due to it from a member, past member or the nominee, heir or legal representative of a deceased member, whether such debt or demand be admitted or not, is a dispute touching the business of the society within the meaning of this sub-section.

(2) The Registrar may, on receipt of such reference,—

(a) decide the dispute himself, or

(b) transfer it for disposal to any person who has been invested by the Local Government with powers in that behalf, or

(c) subject to such rules as may be prescribed, refer it for disposal to an arbitrator or arbitrators.

(3) Subject to such rules as may be prescribed the Registrar may withdraw any reference transferred under clause (b) of sub-section (2) or referred under clause (c) of that sub-section and deal with it in the manner provided in the said sub-section.

(4) Where the Registrar is satisfied that a party to any reference made to him under sub-section (1), with intent to defeat or delay the execution of any decision that may be passed thereon—

(a) is about to dispose of the whole or any part of his property, or

(b) is about to remove the whole or any part of his property from the local limits of the jurisdiction of the Registrar,

the Registrar may, unless adequate security is furnished, direct the conditional attachment of the said property or such part thereof as he thinks necessary; and such attachment shall have the same effect as if it had been made by a competent civil court.

(5) The Registrar may, of his own motion or on the application of a party to a reference, revise any decision thereon by the person to whom such reference was transferred or by the arbitrator or arbitrators to whom it was referred.

(6) (a) Any decision passed by the Registrar under clause (a) of sub-section (2) or under sub-section (5) shall be final and shall not be called in question in any civil or revenue court.

(b) Any decision that may be passed by the person to whom a reference is transferred or by the arbitrator or arbitrators to whom it is referred shall, save as otherwise provided in sub-section (5), be final and shall not be called in question in any civil or revenue court.

#### OFFENCES AND PENALTIES.

52. It shall be an offence under this Act if—

Offences.

(a) a registered society or an officer or member thereof, wilfully makes a false return or furnishes false information; or

(b) any person wilfully or without any reasonable excuse disobeys any summons, requisition or lawful written order issued under the provisions of this Act or does not furnish any information lawfully required from him by a person authorized in this behalf under the provisions of this Act.

53. Any member or past member or the nominee, heir or legal representative of a deceased member contravening the provisions of section 21 by fraudulently disposing of any property in respect of which the society is entitled to claim priority under that section or doing any other act to the prejudice of such claim, shall be punishable with fine not exceeding two hundred rupees.

Punishment for disposing of property in contravention of section 21.

54. (1) No person other than a registered society shall trade or carry on business under any name or title of which the word 'co-operative' is part without the sanction of the Local Government:

Prohibition of the use of the word 'co-operative.'

Provided that nothing in the section shall apply to the use by any person or his successor in interest of any name or title under which he traded or carried on business at the date on which the Co-operative Societies Act, 1912, came into operation.

(2) Whoever contravenes the provisions of sub-section (1) shall be punishable with fine which may extend to fifty rupees and in the case of a continuing offence with further fine of five rupees for each day on which the offence is continued after conviction therefor.

Punishment for offences not otherwise provided for.

55. Any registered society or any officer or member thereof or any other person guilty of an offence under this Act for which no punishment is expressly provided herein shall be punishable with fine not exceeding fifty rupees.

Cognizance of offences.

56. (1) No court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this Act.

(2) Every offence under this Act shall, for the purposes of the Code of Criminal Procedure, 1898, be <sup>V of 1898.</sup> deemed to be non-cognizable.

(3) No prosecution shall be instituted under this Act without the previous sanction of the Registrar. Such sanction shall not be given without giving the party concerned an opportunity to be heard.

#### MISCELLANEOUS.

Power of Government and Registrar to call for proceedings and to pass orders thereon.

57. The Local Government or the Registrar may call for and examine the record of any enquiry or the proceedings of any officer subordinate to them for the purpose of satisfying themselves as to the legality or propriety of any decision or order passed and as to the regularity of the proceedings of such officer. If in any case it shall appear to the Local Government or the Registrar that any decision or order or proceedings so called for should be modified, annulled, or reversed, the Local Government or the Registrar, as the case may be, may pass such order thereon as to it or him may seem fit.

Recovery of sums due to Government.

58. (1) All sums due from a registered society or from an officer, former officer, member or past or deceased member of a registered society as such to the Government including any costs awarded to the Government in any proceeding under this Act may be recovered in the same manner as arrears of land revenue.

(2) Sums due from a registered society to the Government and recoverable under sub-section (1) may be recovered, firstly, from the property of the society;

secondly, in the case of a society the liability of the members of which is limited, from the members, past members or the estates of deceased members, subject to the limit of their liability; and, thirdly, in the case of other societies from the members, past members or the estates of deceased members:

Provided that the liability of past members and of the estates of deceased members shall in all cases be subject to the provisions of section 25.

59. Notwithstanding anything contained in this Act, <sup>Power to exempt societies from conditions as to registration.</sup> the Local Government may, by special order in each case and subject to such conditions, if any, as it may impose, exempt any society from any of the requirements of this Act as to registration.

60. The Local Government may, by general or special <sup>Power to exempt registered societies from provisions of the Act.</sup> order, exempt any registered society from any of the provisions of this Act or may direct that such provisions shall apply to such society with such modifications as may be specified in the order.

61. The provisions of the Indian Companies Act, <sup>Indian Companies Act, 1913, not to apply.</sup> VII of 1913 shall not apply to registered societies.

62. (1) Every society now existing which has been registered under the Co-operative Credit Societies Act, 1904, or under the Co-operative Societies Act, 1912, shall be deemed to be registered under this Act, and its by-laws shall, so far as the same are not inconsistent with the express provisions of this Act, continue in force until altered or rescinded. <sup>Saying of existing societies.</sup>

(2) All appointments, rules and orders made, notifications and notices issued and suits and other proceedings instituted under the said Acts shall, so far as may be, be deemed to have been respectively made, issued and instituted under this Act.

63. No act of a registered society or any committee or of any officer of the society, shall be deemed to be invalid by reason only of some defect in the organization of the society or in the formation of the general body or in the appointment or election of the officer or on the ground that he was disqualified for his office. <sup>Acts of societies, etc., not to be invalidated by certain defects.</sup>

Construction  
of references  
to Co-opera-  
tive  
Societies Act,  
1912, in  
enactments.

64. All references to the Co-operative Societies Act, 1912, occurring in any enactment made by any authority in British India and for the time being in force in the Presidency of Madras shall, in its application to the said Presidency, be construed as references to this Act.

Rules.

65. (1) The Local Government may, for the whole or any part of the Presidency of Madras, and for any registered society or class of such societies, make rules to carry out all or any of the purposes of this Act

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) subject to the provisions of section 6 prescribe the maximum number of shares or portion of the capital of a society which may be held by a member;

(b) prescribe the forms to be used and the conditions to be complied with in the making of applications for the registration of a society and the procedure in the matter of such applications;

(c) subject to the provisions of section 5 prescribe the procedure to be followed when societies change their form of liability;

(d) prescribe the matters in respect of which a society may or shall make by-laws and for the procedure to be followed in making, altering and abrogating by-laws, and the conditions to be satisfied prior to such making, alteration or abrogation;

(e) prescribe the conditions to be complied with by persons applying for admission or admitted as members, and provide for the election and admission of members, and the payment to be made and the interests to be acquired before the exercise of the right of membership;

(f) regulate the manner in which funds may be raised by means of shares or debentures or otherwise;

(g) provide for general meetings of the members and for the procedure at such meetings and the powers to be exercised by such meetings;

(h) prescribe in the case of a financing bank—

(i) the proportion of individual members to society members in the constitution of its general body or of its committee; and

(ii) the maximum number of members of its committee.

(i) provide for the appointment, suspension and removal of the members of the committee and other officers and for the procedure at meetings of the committee and for the powers to be exercised and the duties to be performed by the committee and other officers;

(j) prohibit a society from appointing a defaulting member of any society to its committee or to the committee of any other society and allowing him to exercise his rights of membership in the society or to represent it in another society and vote;

(k) prescribe the accounts and books to be kept by a society and provide for the audit of such accounts and the charges, if any, to be made for such audit, and for the periodical publication of a balance sheet showing the assets and liabilities of a society;

(l) prescribe the returns to be submitted by a society to the Registrar and provide for the persons by whom and the form in which such returns shall be submitted and in case of failure to submit any such return for the levy of the expenses of preparing it;

(m) provide for the persons by whom and the form in which copies of entries in books of societies may be certified and for the charges to be levied for the supply of such copies;

(n) provide for the formation and maintenance of a register of members and, where the liability of the members is limited by shares, of a register of shares;

(o) provide for—

(i) the appointment of an arbitrator or arbitrators to decide disputes;

(ii) the procedure to be followed in proceedings before the Registrar, arbitrator or arbitrators or other person deciding disputes including the appointment of a guardian for a party to the dispute who is a minor or who, by reason of unsoundness of mind or mental infirmity, is incapable of protecting his interests;

(iii) the levy of the expenses incidental to such proceedings; and

(iv) the enforcement of the decisions or awards in such proceedings;

(p) provide for the withdrawal and expulsion of members and for the payments, if any, to be made to members who withdraw or are expelled and for the liabilities of past members or the estates of deceased members;

(q) prescribe the prohibitions and restrictions subject to which societies may trade with persons who are not members;

(r) provide for the mode in which the value of a deceased member's interest shall be ascertained, and for the nomination of a person to whom such interest may be paid or transferred;

(s) prescribe the payments to be made and the conditions to be complied with by members applying for loans, the period for which loans may be made and the amount which may be lent, to an individual member;

(t) provide for the formation and maintenance of reserve funds, and the objects to which such funds may be applied, and for the investment of any funds under the control of a society;

(u) prescribe the extent to which a society may limit the number of its members;

(v) prescribe the conditions under which profits may be distributed to the members of a society with unlimited liability and the maximum rate of dividend which may be paid by societies;

(w) prescribe the procedure to be followed by a liquidator appointed under section 47, and provide for the disposal of the surplus assets, if any, of the society;

(x) subject to the provisions of this Act, determine the cases in which an appeal shall lie from the orders of the Registrar, and prescribe the procedure to be followed in presenting and disposing of all appeals under this Act;

(y) prescribe the period for which and the terms under which aid may be given by the Local Government to societies and the terms under which the Local Government may guarantee the payment of interest on debentures issued by societies;

(z) provide for the custody of property attached under this Act;

(aa) provide for the issue and service of processes and for proof of service thereof;

(bb) provide for the inspection of documents in the Registrar's office and the levy of fees for granting certified copies of the same;

(cc) provide for the investigation of claims and objections that may be preferred against any attachment effected by the Registrar or an officer empowered by him;

(dd) provide for the recovery of costs awarded against the Government in cases under section 49;

(ee) prescribe the procedure for the attachment and sale of property under section 28; and

(ff) provide for all matters expressly required or allowed by this Act to be prescribed by rules.

(3) The power to make rules conferred by this section is subject to the condition of the rules being made after previous publication.

(4) All rules made under this section shall be published in the *Fort St. George Gazette* and on such publication shall have effect as if enacted in this Act.

(5) All such rules shall be laid on the table of the Legislative Council

#### REPEALS.

66. The enactments specified in the schedule are ~~repealed~~ hereby repealed in so far as they apply to the Presidency of Madras to the extent specified in the fourth column of the said schedule.

#### SCHEDULE.

##### *Enactments repealed.*

Year. (1)	No. (2)	Short title. (3)	Extent of repeal. (4)
<i>Acts of the Governor-General in Council.</i>			
1912 ...	II	The Co-operative Societies Act, 1912.	The whole.
1920 ...	XXXVIII	The Devolution Act, 1920.	So much as relates to Act II of 1912.

##### *Act of the Governor of Madras in Council.*

1920 ...	X	The Co-operative Societies (Amendment) Act, 1920.	The whole.
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## MADRAS ACT No. VII OF 1932

PASSED BY THE LEGISLATIVE COUNCIL OF MADRAS:

[Received the assent of the Governor on the 28th April 1932, and that of the Governor-General on the 17th June 1932, the assent of the Governor-General was first published in the "Fort St. George Gazette" of the 5th July 1932.]

An Act to provide for the prohibition of the cultivation of pulichai cotton and the mixing of such cotton with other cotton and for the prohibition or restriction of the possession or use of, or the trade in, pulichai cotton or cotton mixed with pulichai cotton.

WHEREAS it is expedient in the best interests of the growers of cotton in certain areas in the Presidency of Madras, the cotton trade and the economic prosperity of the said Presidency, to maintain the quality and reputation of the cotton grown in those areas and for that purpose to prohibit the cultivation of pulichai cotton and the mixing of such cotton with other cotton and to prohibit or restrict the possession or use of, or the trade in, pulichai cotton or cotton mixed with pulichai cotton;

AND WHEREAS the previous sanction of the Governor-General has been obtained to the passing of this Act;

It is hereby enacted as follows:—

1. (1) This Act may be called the Madras Cotton short title and extent Control Act, 1932.

(2) It extends to the whole of the Presidency of Madras.

2. In this Act, unless there is anything repugnant in Definitions the subject or context—

(a) "cotton" means cotton plant, ginned and un-ginned cotton, cotton waste and cotton seed;

(b) "notified area" means an area specified in a notification under section 3; and

(c) "pulichai cotton" means the kind of cotton known as *G. neglectum var. roseum*.

Power of  
Local  
Government  
to issue  
notification  
prohibiting  
the cultiva-  
tion, etc., of  
pulichai  
cotton

3. The Local Government may, by notification in the *Fort St. George Gazette*, in such local area and for such period as may be specified in the notification—

(a) prohibit the cultivation of pulichai cotton ; or

(b) prohibit the mixing of pulichai cotton with any other kind of cotton ; or

(c) prohibit or restrict the possession or use of, or the trade in, pulichai cotton or cotton mixed with pulichai cotton.

Penalties

4. Whoever, in contravention of any notification under section 3—

(a) cultivates pulichai cotton, or

(b) mixes pulichai cotton with any other kind of cotton, or

(c) possesses, uses or trades in pulichai cotton or any cotton mixed with pulichai cotton

shall be punishable with fine which may extend to twenty rupees and upon any subsequent conviction with fine which may extend to fifty rupees.

Power of  
entry and  
seizure.

5. (1) Any officer authorized in this behalf by the Local Government may between the hours of 6 a.m. and 6 p.m.—

(a) enter upon any land in a notified area in which he knows or suspects that pulichai cotton is being cultivated in contravention of a notification under section 3, uproot or cause to be uprooted such cotton, and seize the cotton so uprooted ; and

(b) enter upon or into any land, building, vessel or place in a notified area in which he knows or suspects that pulichai cotton or any cotton mixed with pulichai cotton is kept in contravention of a notification under section 3, and seize such cotton.

(2) Every officer seizing any cotton under this section shall forthwith—

(a) make a report of such seizure to the Magistrate having jurisdiction to try the offence committed in respect of such cotton, together with particulars of such cotton and furnish a copy of such particulars to the occupier of the land, building, vessel or place on or in which such seizure was made, and

(b) subject to such rules as the Local Government may prescribe, forward such cotton to the nearest officer authorized by the Local Government to receive it, for

examination and report to the Director of Agriculture, Madras.

(3) The opinion of the authorized officer referred to in clause (b) of sub-section (2), contained in any document signed by such officer regarding the cotton sent to him for examination under that clause, may be used as evidence as to the nature of such cotton, in any inquiry, trial or proceeding under this Act.

6 (1) Every owner or occupier of any land, building, vessel or place shall give all reasonable facilities to any officer authorized under sub-section (1) of section 5 to inspect such land, building, vessel or place.

(2) Whoever commits a breach of the provisions of sub-section (1) shall be punishable with fine which may extend to twenty rupees.

7. No prosecution for an offence made punishable by this Act or any rule made thereunder shall be instituted—

(i) without the previous sanction of the Director of Agriculture, Madras, or

(ii) after six months from the date of the commission of the offence.

8. No offence made punishable by this Act or any rule made thereunder shall be inquired into or tried by any Court inferior to that of a Presidency Magistrate or a Magistrate of the second class.

9. No suit, prosecution or other legal proceeding whatever shall be entertained in any Court against any person for anything in good faith done or intended to be done in pursuance or execution of this Act.

10. (1) The Local Government may, by notification in the *Fort St. George Gazette*, make rules consistent with this Act to carry into effect the purposes thereof.

(2) In making any rule, the Local Government may provide that a breach thereof shall be punishable with fine which may extend to twenty rupees.

## ACT No. XVI OF 1932

PASSED BY THE INDIAN LEGISLATURE.

[Received the assent of the Governor General on the  
30th September 1932.]

An Act further to amend the Indian Emigration Act,  
1922, for certain purposes.

WHEREAS it is expedient further to amend the Indian  
VII of 1922. Emigration Act, 1922, for the purposes hereinafter  
appearing; It is hereby enacted as follows:—

1. This Act may be called the Indian Emigration <sup>Short title.</sup> (Amendment) Act, 1932.

2. For clause (b) of sub-section (2) of section 24 of <sup>Amendment of section 24, Act VII of 1922.</sup> VII of 1922. the Indian Emigration Act, 1922 (hereinafter referred to as the said Act), the following shall be substituted, namely:—

“(b) the licensing, supervision and control of persons in British India engaged in causing or assisting persons to emigrate and in the conveyance and accommodation of emigrants, and the prohibition of unlicensed persons from being so engaged;”.

3. In section 25 of the said Act,—

(a) in clause (b) of sub-section (2), for the words “ induces, or attempts to induce ” the words “ causes or assists or attempts to cause or assist ” shall be substituted; and

(b) sub-section (3) shall be re-numbered as sub-section (4), and the following sub-section shall be inserted as sub-section (3), namely:—

“(3) When in the course of any proceedings in connection with emigration in which a person licensed in accordance with rules framed under clause (b) of sub-section (2) of section 24 is concerned, a breach of the provisions of this Act or of the rules made under this Act is committed, such person shall be liable to the punishment provided by sub-section (2), unless he shows that he was not responsible for and could not have prevented the commission of the breach.”

4. In sub-section (3) of section 30 of the said Act, <sup>Amendment of section 30, Act VII of 1922.</sup> for the words “ induces, or attempts to induce ” the words “ causes or assists or attempts to cause or assist ” shall be substituted.

[Printed under the authority of the Governor of Fort St. George in Council  
by the Superintendent of the Government Press, Madras.]

## ACT No. XVII OF 1932.

PASSED BY THE INDIAN LEGISLATURE.

[Received the assent of the Governor General on the  
30th September 1932.]

*An Act further to amend the Cantonments Act,  
1924, for a certain purpose.*

WHEREAS it is expedient further to amend the Cantonments Act, 1924, in the manner and for the purpose hereinafter appearing; It is hereby enacted as follows:—

II of 1924. 1. This Act may be called the Cantonments (Amendment) Act, 1932. Short title.

II of 1924. 2. In clause (ix) of section 2 of the Cantonments Act, 1924, after the words "Officer Commanding the District," where they occur for the first time, the words "or Officer Commanding-in-Chief, the Command" shall be inserted, and after the words "Officer Commanding words "and Officer Commanding-in-Chief, the Com- the District," whether they occur for the second time, the mand" shall be added; and this insertion and addition shall be deemed to have been made on and to have effect from the 29th day of February 1932.

Amendment of clause (ix), section 2, Act II of 1924.

## ACT No. XVIII of 1932]

PASSED BY THE INDIAN LEGISLATURE

[Received the assent of the Governor-General on the  
30th September 1932.]

*An Act to amend the Ancient Monuments Preservation  
Act, 1904, for certain purposes.*

WHEREAS it is expedient to amend the Ancient Monuments Preservation Act, 1904, for the purposes herein-after appearing; It is hereby enacted as follows:—

1. This Act may be called the Ancient Monuments short title. Preservation (Amendment) Act, 1932.

2. After section 10 of the Ancient Monuments Insertion, Preservation Act, 1904 (hereinafter referred to as the new section 10A in Act VII of 1904. said Act), the following section shall be inserted, VII of 1904. namely:—

“ 10A. (1) If the Local Government is of opinion Power of Local Gov- that mining, quarrying, excavating, blasting and other control min- operations of a like nature should be restricted or regu-ing, etc., lated for the purpose of protecting or preserving any near ancient ancient monument, the Local Government may, by monument. notification in the local official Gazette, make rules—

(a) fixing the boundaries of the area to which the rules are to apply,

(b) forbidding the carrying on of mining, quarrying, excavating, blasting or any operation of a like nature except in accordance with the rules and with the terms of a licence, and

(c) prescribing the authority by which, and the terms on which, licences may be granted to carry on any of the said operations.

(2) The power to make rules given by this section is subject to the condition of the rules being made after previous publication.

(3) A rule made under this section may provide that any person committing a breach thereof shall be

[PRICE, 1 a. 6 p.]

punishable with fine which may extend to two hundred rupees.

(4) If any owner or occupier of land included in a notification under sub-section (1) proves to the satisfaction of the Local Government that he has sustained loss by reason of such land being so included, the Local Government shall pay compensation in respect of such loss."

Substitution  
of new sec-  
tions for  
section 20,  
Act VII of  
1904.

3. For section 20 of the said Act and its heading "Excavation," the following sections and heading shall be substituted, namely:—

*Archæological Excavation.*

Power of  
Governor  
General in  
Council to  
notify areas  
as protected.

20. (1) If the Governor General in Council, after consulting the Local Government, is of opinion that excavation for archæological purposes in any area should be restricted and regulated in the interests of archæological research, the Governor General in Council may, by notification in the *Gazette of India* specifying the boundaries of the area, declare it to be a protected area.

(2) From the date of such notification all antiquities buried in the protected area shall be the property of Government and shall be deemed to be in the possession of Government, and shall remain the property and in the possession of Government until ownership thereof is transferred; but in all other respects the rights of any owner or occupier of land in such area shall not be affected.

Power to  
enter upon  
and make  
excavations  
in a protec-  
ted area.

20A. (1) Any officer of the Archæological Department or any person holding a licence under section 20B may, with the written permission of the Collector, enter upon and make excavations in any protected area.

(2) Where, in the exercise of the power conferred by sub-section (1), the rights of any person are infringed by the occupation or disturbance of the surface of any land, the Government shall pay to that person compensation for the infringement.

Power of  
Governor-  
General in  
Council to  
make rules  
regulating  
archæo-  
logical exca-  
vation in  
protected  
areas.

20B. (1) The Governor General in Council may make rules—

(a) prescribing the authorities by whom licences to excavate for archæological purposes in a protected area may be granted;

(b) regulating the conditions on which such licences may be granted, the form of such licences, and the taking of security from licensees;

(c) prescribing the manner in which antiquities found by a licensee shall be divided between Government and the licensee; and

(d) generally to carry out the purposes of section 20.

(2) The power to make rules given by this section is subject to the condition of the rules being made after previous publication.

(3) Such rules may be general for all protected areas for the time being, or may be special for any particular protected area or areas.

(4) Such rules may provide that any person committing a breach of any rule or of any condition of a licence shall be punishable with fine which may extend to five thousand rupees, and may further provide that where the breach has been by the agent or servant of a licensee the licensee himself shall be punishable.

20C. If the Governor General in Council is of <sup>Power to</sup> <sub>acquire a</sub> protected opinion that a protected area contains an ancient monument or antiquities of national interest and value, he may area. direct the Local Government to acquire such area, or any part thereof, and the Local Government may thereupon acquire such area or part under the Land Acquisition Act, 1894, as for a public purpose."

I of 1894.

4. In section 21 of the said Act,—

(a) the words "amount of," where they first occur, shall be omitted, and

(b) for the words "touching the amount" the words "in respect" shall be substituted.

<sup>Amendment  
of section  
21, Act VII  
of 1904.</sup>

## ACT No. XIX OF 1932

PASSED BY THE INDIAN LEGISLATURE

[Received the assent of the Governor General on the  
30th September 1932.]

*An Act to amend the Trade Disputes Act, 1929,  
for certain purposes.*

WHEREAS it is expedient to amend the Trade Disputes  
VII of 1929. Act, 1929, for the purposes hereinafter appearing; It is  
hereby enacted as follows:—

1. This Act may be called the Trade Disputes short title.  
(Amendment) Act, 1932.
2. In section 13 of the Trade Disputes Act, 1929,—
  - (a) in sub-section (1),—
    - (i) for the words “ except with the consent in writing of the Secretary of the Trade Union or of the person, firm or company in question ” the words “ if the Trade Union, person, firm or company in question has preferred a request to the Court or Board that such information shall be treated as confidential ” shall be substituted, and
    - (ii) for the words “ without such consent ” the words “ without the consent in writing of the Secretary of the Trade Union or the person, firm or company in question, as the case may be ” shall be substituted;
  - (b) in sub-section (2), after the words “ before a Court or Board ” the word “ wilfully ” shall be inserted; and
  - (c) after sub-section (2), the following sub-sections shall be inserted, namely :—
    - “(3) No Criminal Court inferior to that of a Presidency Magistrate or a Magistrate of the first class shall try any offence under this section.
    - “(4) No Criminal Court shall take cognizance of any offence under this section except with the previous sanction of the authority appointing such Court or Board; and no Civil Court shall without the like sanction entertain any suit against a member of a Court or Board, or any person present at or concerned in the proceedings before a Court or Board, for any matter arising out of such proceedings.”

## ACT No. XX OF 1932

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PASSED BY THE INDIAN LEGISLATURE.

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[Received the assent of the Governor General on the  
1st October 1932.]

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*An Act to establish Committees in the principal ports of  
pilgrim traffic to assist Muslim pilgrims to the Hedjaz.*

WHEREAS it is expedient to establish Committees in the principal ports of pilgrim traffic to assist Muslim pilgrims to the Hedjaz; It is hereby enacted as follows:--

1. (1) This Act may be called the Port Haj Committees Short title,  
extent and  
commencement.  
Act, 1932.

(2) It extends in the first instance to the Presidencies of Bombay and Bengal, but the Governor General in

Council may, by notification in the *Gazette of India*, extend it to any other maritime province.

(3) This section shall come into force at once, and the remaining provisions of this Act shall come into force in any province to which the Act extends on such date as the Governor General in Council may, by notification in the *Gazette of India*, appoint in this behalf.

**Definitions.** 2. In this Act, unless there is anything repugnant in the subject or context,—

(a) a “pilgrim” means a Muslim proceeding on or returning from pilgrimage to the Hedjaz; and

(b) a “pilgrim ship” means a ship conveying or about to convey pilgrims from or to any port in British India to or from any port in the Red Sea other than Suez.

**Initiation of Port Haj Committees.** 3. As soon as may be after this Act comes into force in the Presidency of Bengal, there shall be constituted a committee, to be called the Port Haj Committee of Calcutta, and as soon as this Act comes into force in the Presidency of Bombay, there shall be constituted two committees, to be called the Port Haj Committee of Bombay and the Port Haj Committee of Karachi, respectively.

**Composition of Port Haj Committees.** 4. (1) The Port Haj Committee of Calcutta shall consist of nineteen members as follows:—

(a) seven members to be nominated by the Local Government, of whom not more than five shall be officials;

(b) two members to be elected by the elected Muslim Councillors and elected Muslim Aldermen of the Corporation of Calcutta;

(c) six members to be elected by an electorate consisting of—

(i) the elected Muslim members of the Bengal Legislative Council,

(ii) the Muslim members of the Council of State and of the Legislative Assembly, elected by constituencies in the Presidency of Bengal, and

(iii) the elected Muslim members of the Bengal Medical Council; and

(d) four members to be co-opted by the elected members of the Committee,

(2) The Port Haj Committee of Bombay shall consist of nineteen members as follows:—

(a) seven members to be nominated by the Local Government, of whom not more than five shall be officials;

(b) two members to be elected by the elected Muslim members of the Municipal Corporation of the City of Bombay;

(c) six members to be elected by an electorate consisting of—

(i) the elected Muslim members of the Bombay Legislative Council,

(ii) the Muslim members of the Council of State and of the Legislative Assembly, elected by constituencies in the Presidency of Bombay, and

(iii) the elected Muslim members of the Bombay Medical Council; and

(d) four members to be co-opted by the elected members of the Committee.

(3) The Port Haj Committee of Karachi shall consist of seventeen members as follows:—

(a) six members to be nominated by the Local Government, of whom not more than five shall be officials;

(b) two members to be elected by the elected Muslim members of the Municipality of Karachi;

(c) five members to be elected by the electorate defined in clause (c) of sub-section (2); and

(d) four members to be co-opted by the elected members of the Committee.

(4) An elected member of a Port Haj Committee need not be a member of the electorate which elects him.

(5) A member of a Port Haj Committee nominated by a Local Government may be nominated by virtue of office.

5. (1) The Local Government may propose to the Governor General in Council a draft of rules altering the composition of a Port Haj Committee, and the Governor General in Council, after previous publication of the draft in accordance with the provisions of section 23 of the General Clauses Act, 1897, shall take the draft into consideration.

(2) The draft in the form finally approved by the Governor General in Council shall be published in the *Gazette of India* and in the local official Gazette, and thereupon the composition of the Port Haj Committee shall be altered accordingly.

Constitu-  
tion of Port  
Haj Com-  
mittees in  
other ports.

6. (1) When any port, other than Calcutta, Bombay or Karachi, situated in any province to which this Act extends, is appointed to be a port for pilgrim traffic in pursuance of sub-section (1) of section 150 of the Indian Merchant Shipping Act, 1923, the Governor General in <sup>XXI of</sup> <sub>1923.</sub> Council may, subject to the condition of previous publication, make rules providing for the composition of a Port Haj Committee for such port, and shall cause the Committee to be constituted accordingly.

(2) The provisions of this Act shall apply to such Committee when constituted.

Nomina-  
tions, elec-  
tions and  
co-options.

7. (1) The election and co-option of members of Port Haj Committees shall be conducted in accordance with rules to be made in this behalf by the Local Government.

(2) As soon as may be after the election and co-option of members of a Port Haj Committee, the Local Government shall make the nominations permitted by section 4, and shall publish in the local official Gazette a list of the names of all members nominated, elected and co-opted :

Provided that the failure of anybody to elect or to co-opt a member shall not prevent the Local Government from making nominations or from publishing the list of members as provided in this sub-section :

Provided further that the list of members of a new Committee shall not be published before the expiry of three years from the date of the publication of the list of members of the Committee which it is replacing.

Term of  
office.

8. (1) Where a member of a Port Haj Committee is nominated by virtue of his office, the person for the time being holding the office shall be a member until the Local Government otherwise directs.

(2) The term of office of other members (except members filling casual vacancies) shall be not less than three years, commencing on the day following the publication of the list of members under sub-section (2) of section 7, and ending on the date of the publication of the list of members of the next Committee.

Formation  
of new Com-  
mittees.

9. (1) At such time as the Local Government may deem to be expedient before or after the expiry of the period of three years after the publication of the list of members of a Committee under sub-section (2) of section 7, the

Local Government shall take or cause to be taken all necessary steps for the election, co-option and nomination of members of the new Committee.

(2) No person shall be ineligible for election, co-option or nomination to a Port Haj Committee on the ground that he is or has been a member of a Port Haj Committee.

10. The Local Government may make rules—

(a) prescribing the disqualifications which shall dis-  
qualify any person from being elected, co-opted or nominated as member of a Port Haj Committee; Rules relating to the constitution of Committees.

(b) providing for the decision of doubts and disputes relating to the election and co-option of members;

(c) regulating the resignation of members;

(d) prescribing the reasons for which members may be removed, and providing for their removal;

(e) regulating the filling of casual vacancies and the term of office of members filling casual vacancies; and

(f) providing for any other matter which the Local Government may deem to be expedient for the proper constitution of Port Haj Committees.

11. (1) After the publication of the list of members of a Port Haj Committee under sub-section (2) of section 7, the Local Government shall direct the Committee to elect one of its members to be Chairman within a time to be specified in such direction. Chairmen and Vice-Chairmen.

(2) If within the time so specified the Committee fails to elect a Chairman, the Local Government may appoint a member of the Committee to be Chairman of the Committee.

(3) An elected Chairman shall not take up his office until his election has been approved by the Local Government.

(4) A Port Haj Committee may elect from amongst its members not more than two members to be Vice-Chairmen.

(5) The appointment or election of Chairmen and Vice-Chairmen shall be notified in the local official Gazette.

12. The Local Government may make rules—

(a) prescribing the term of office of Chairmen;

(b) prescribing the powers and duties of Chairmen;

(c) regulating the resignation of Chairmen;

(d) prescribing the reasons for which Chairmen and Vice-Chairmen may be removed, and providing for their removal; and

Power to make rules regarding Chairmen and Vice-Chairmen.

(e) regulating the filling of casual vacancies in the office of Chairman and the term of office of persons filling such vacancies.

Power to make by-laws regarding Chairmen and Vice-Chairmen.

13. A Port Haj Committee may, with the previous sanction of the Local Government, make by-laws—

- (a) prescribing the term of office of Vice-Chairmen;
- (b) prescribing the powers and duties of Vice-Chairmen and also the powers and duties of the Chairman in so far as they have not been prescribed by rules under section 12;
- (c) regulating the resignation of Vice-Chairmen; and
- (d) regulating the filling of casual vacancies in the office of Vice-Chairman, and the term of office of persons filling such vacancies.

Officers and servants of Port Haj Committees.

14. (1) Until the expiry of a period of four years from the date of the publication of the list of members of a Port Haj Committee on its first constitution, the Local Government shall, in consultation with the Committee, appoint, for each Port Haj Committee, a person to be Executive Officer, who shall also be Secretary to the Committee, and shall also in like manner appoint such other officers and servants as it may consider necessary for the efficient discharge of the duties of the Committee.

(2) The Local Government may make rules—

- (a) regulating the relations between a Port Haj Committee and its Executive Officer;
- (b) regulating the subordination of the other officers and servants of a Port Haj Committee to the Committee and to the Executive Officer;
- (c) determining the conditions of service of an Executive Officer and other officers and servants;
- (d) prescribing the powers and duties of the Executive Officer in so far as they are not prescribed by this Act; and
- (e) prescribing the powers and duties of the other officers and servants of a Port Haj Committee.

(3) Rules made under sub-section (2) may authorize a Port Haj Committee to make by-laws providing for any of the matters specified in that sub-section in so far as such matters are not provided for in the rules.

15. (1) Within the period of four years referred to in sub-section (1) of section 14 the Local Government may, and on the expiry of that period the Local Government shall, by notification in the local official Gazette, authorize a Port Haj Committee to appoint its Executive Officer, and to appoint such other officers and servants as the Committee may deem to be necessary for the efficient discharge of its duties.

(2) Such authorization may impose such restrictions and conditions as the Local Government may think fit.

(3) A Port Haj Committee so authorized may make by-laws providing for any of the matters specified in sub-section (2) of section 14, and may cancel any rule made under that sub-section in so far as it applies to such Committee and its officers and servants.

16. The pay and allowances and expenses lawfully incurred in respect of an Executive Officer or other officer or servant appointed by the Local Government under section 14 shall be paid by the Governor General in Council, and the pay, allowances and expenses lawfully incurred in respect of an Executive Officer or other officer or servant appointed by a Committee under section 15 shall be paid by the Committee out of the funds at its disposal.

17. (1) A Port Haj Committee shall meet at least once in every month during the four months before the Haj Day and during the two months after the Haj Day, and at least once in each three months during the rest of the year.

(2) The number of members required to make a quorum at any meeting shall be six.

(3) All matters shall be decided by a majority of the members present, and in the event of an equality of votes the Chairman or other person presiding shall have a casting vote.

(4) A Port Haj Committee may make by-laws—

(a) regulating the convening of its meetings;  
(b) regulating the conduct of business at its meetings;

(c) prescribing the registers and records which shall be maintained;

(d) providing for the publication of its proceedings and of any other matters of interest to pilgrims; and

(e) providing for any other matter which the Committee may deem necessary for the regulation of its meetings and its business:

Delegation to Port Haj Committee of control over its officers and servants.

Payment of salaries, etc., of officers and servants.

Meetings of Committees and conduct of business.

Provided that the Local Government may, at any time before the first meeting of a Committee after the commencement of this Act, frame instructions for the Committee on all or any of the matters specified in this sub-section, and such instructions shall be deemed to be by-laws made by the Committee under this sub-section until they are superseded by by-laws so made.

(5) Anything done or any proceeding taken by a Port Haj Committee shall not be questioned on the ground of any vacancy in the Committee, or on account of any defect or irregularity not affecting the merits of the case.

Duties of  
Port Haj  
Committees.

18. (1) The duties of a Port Haj Committee shall be—

(a) to collect and disseminate information useful to pilgrims;

(b) to advise and assist pilgrims during their stay at the port, while proceeding to or returning from the Hedjaz, in all matters including vaccination, inoculation, medical inspection and issue of passes and passports, and to co-operate with the local authorities concerned in such matters;

(c) to give relief to indigent pilgrims;

(d) to negotiate and co-operate with railways and shipping companies for the purpose of securing travelling facilities for pilgrims;

(e) to find suitable Muslims for employment by shipping companies on pilgrim ships;

(f) to bring the grievances of pilgrims and any irregularities or omissions on the part of a master or owner of a pilgrim ship in the carrying out of the provisions of the xxi of Indian Merchant Shipping Act, 1923, to the notice of the 1923. authorities concerned, and to suggest remedies;

(g) to authorize whenever practicable an individual pilgrim or a committee of pilgrims on board a pilgrim ship to represent the grievances of the pilgrims to the master or owner of the ship; and

(h) such other duties in connection with the pilgrim traffic as may be entrusted to it by Government.

(2) The Local Government shall afford all reasonable assistance to the Port Haj Committee in the discharge of the duties imposed by this section.

Inspection  
of pilgrim  
ships.

19. (1) Each Port Haj Committee shall appoint one or more sub-committees composed of two of its members, whose duties shall be the inspection of pilgrim ships.

(2) Any such sub-committee when inspecting a pilgrim ship shall be accompanied by the certifying officer appointed for the port under section 151 of the Indian Merchant Shipping Act, 1923, or by the Surveyor of the ship or other person deputed by the certifying officer.

(3) The Executive Officer of a Port Haj Committee or a sub-committee appointed under sub-section (1) may enter and inspect any pilgrim ship advertised or offering to sail from or which has returned to the port for which the Committee is constituted.

(4) A master or any officer of a pilgrim ship who fails to render every reasonable facility for such inspection shall be punishable with fine which may extend to five hundred rupees.

(5) No Magistrate other than a Presidency Magistrate or Magistrate of the first class shall take cognizance of an offence punishable under sub-section (4), and such Magistrates shall take cognizance of such offence only on written complaint by the Chairman of the Port Haj Committee concerned.

20. In each port in which there is a Port Haj Committee there shall be created a fund, to be called the Haj Fund of the port concerned, and there shall be placed to the credit thereof the following sums, in so far as they arise or have arisen in the port concerned, namely:—

(a) the interest on all deposits made by pilgrims under clause (b) of section 208A of the Indian Merchant Shipping Act, 1923;

(b) sums realized from the sale of the effects of deceased pilgrims and sums of money left by deceased pilgrims, which are unclaimed and have lapsed to Government;

(c) any fees which may be levied for the issue of visitors' passes to friends and relations of pilgrims who desire to go on board a pilgrim ship;

(d) the amount now standing to the credit of the fund known as the Indigent Pilgrims' Fund: provided that such amount shall be applied by the Committee solely for the relief of indigent pilgrims;

(e) any sums received by the Haj Fund from private sources; and

(f) any sums allotted by Government to the Haj Fund.

Application  
of the Haj  
Fund.

21. A Haj Fund of a port shall, subject to rules made under section 22, be under the control and management of the Port Haj Committee for that port, and shall be applicable to the payment of charges and expenses incidental to the objects specified in section 18, and of any other object specified by rules made under clause (c) of section 22.

Power to  
make rules  
for the  
financial  
control of  
Committees.

22. The Local Government may, subject to the control of the Governor General in Council, make rules—

(a) providing for the custody of Haj Funds;

(b) regulating the investment of balances of Haj Funds;

(c) prescribing the objects to which Haj Funds shall be applicable, in addition to those prescribed in section 18;

(d) fixing the limits of expenditure which may be incurred by a Committee without sanction, and providing for the grant of sanction for expenditure exceeding those limits;

(e) regulating the preparation, submission and approval of the budgets of Committees;

(f) prescribing the accounts to be kept by Committees, and providing for the audit and publication thereof;

(g) prescribing the returns, statements and reports to be submitted by Committees; and

(h) generally providing for the control of Committees in respect of financial matters.

Provisions  
regarding  
rules and  
by-laws.

23. (1) Rules made by the Local Government under this Act shall be made by notification in the local official Gazette and shall be subject to the condition of previous publication.

(2) By-laws made by a Port Haj Committee shall be submitted to the Local Government, and shall not take effect until they have been confirmed by the Local Government.

(3) By-laws which have been confirmed by the Local Government shall be published in the local official Gazette.

24. (1) On the date on which this Act comes into force in the Presidency of Bombay, sections 8, 9 and 10 of the Protection of Pilgrims Act, 1887, shall be repealed.

(2) On the date on which this Act comes into force in the Presidency of Bengal, sections 8, 9 and 10 of the Protection of Muhammadan Pilgrims Act, 1896, shall be repealed.

Bom. Act II  
of 1887.

Beng. Act I  
of 1896.

## ACT No. XXI OF 1932

PASSED BY THE INDIAN LEGISLATURE.

[Received the assent of the Governor General on the  
1st October 1932.]

*An Act further to amend the Code of Criminal  
Procedure, 1898, for a certain purpose.*

WHEREAS it is expedient further to amend the Code  
V of 1898. of Criminal Procedure, 1898, for the purpose hereinafter  
appearing; It is hereby enacted as follows:—

1. This Act may be called the Code of Criminal Pro- ~~Procedure~~ <sup>Short title.</sup> (Amendment) Act, 1932.
- V of 1898. 2. In section 526 of the Code of Criminal Procedure, <sup>Amendment  
of section  
526, Act V</sup> 1898,—
  - (a) in sub-section (5), for the words “ has power of 1898. under this section to award by way of costs ” the words “ may under this section award by way of compensation ” shall be substituted;
  - (b) in sub-section (6A), for the word “ costs ” the word “ compensation ” shall be substituted, and for the words “ any expenses reasonably incurred by such person in consequence of the application ” the words “ such sum not exceeding two hundred and fifty rupees as it may consider proper in the circumstances of the case ” shall be substituted;
  - (c) for sub-section (8) the following sub-section shall be substituted, namely:—

“ (8) If in any inquiry under Chapter VIII or Chapter XVIII or in any trial, any party interested intimates to the Court at any stage before the defence closes its case that he intends to make an application under this section, the Court shall, upon his executing, if so required, a bond without sureties, of an amount not exceeding two hundred rupees, that he will make such application within a reasonable time to be fixed by the

Court, adjourn the case for such a period as will afford sufficient time for the application to be made and an order to be obtained thereon :

Provided that nothing herein contained shall require the Court to adjourn the case upon a second or subsequent intimation from the same party, or, where an adjournment under this sub-section has already been obtained by one of several accused, upon a subsequent intimation by any other accused ";

(d) to sub-section (9) the following Explanation shall be added, namely :—

*“Explanation.—Nothing contained in sub-section (8) or sub-section (9) restricts the powers of a Court under section 344 ”;* and

(e) after sub-section (9) as so amended the following sub-section shall be added, namely :—

“ (10) If, before the argument (if any) for the admission of an appeal begins, or, in the case of an appeal admitted, before the argument for the appellant begins, any party interested intimates to the Court that he intends to make an application under this section, the Court shall, upon such party executing, if so required, a bond without sureties of an amount not exceeding two hundred rupees that he will make such application within a reasonable time to be fixed by the Court, postpone the appeal for such a period as will afford sufficient time for the application to be made and an order to be obtained thereon.”

(Printed under the authority of the Governor of Fort St. George in Council  
by the Superintendent of the Government Press, Madras.)

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## ACT No. XXII of 1932.

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PASSED BY THE INDIAN LEGISLATURE.

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[Received the assent of the Governor-General on the  
8th October 1932.]

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### THE TEA DISTRICTS EMIGRANT LABOUR ACT, 1932.

#### CHAPTER I.

#### PRELIMINARY.

##### SECTIONS.

1. Short title, extent and commencement.
2. Definitions.
3. Appointment and status of Controller and Deputy Controllers.
4. Powers of the Controller.
5. Emigrant Labour Cess.
6. Power to make rules for the collection of the Emigrant Labour Cess.

## CHAPTER II.

## REPATRIATION.

## SECTIONS.

7. General right of repatriation after three years in Assam.
8. Right to repatriation on dismissal.
9. Rights of repatriation of family of deceased emigrant labourer.
10. Right to apply for repatriation in certain circumstances.
11. Power of criminal Courts to order repatriation.
12. Incidents of the right of repatriation.
13. The discharge of an employer's duty to repatriate.
14. Postponement, waiver and forfeiture of the right.
15. Power of the Controller to enforce the provisions of this Chapter.

## CHAPTER III.

## CONTROLLED EMIGRATION AREAS.

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17. Power to grant licences to local forwarding agents.
18. Recruits in controlled emigration areas to be sent to forwarding agents' depots.
19. Assisted emigrants to be forwarded to Assam by local forwarding agents by prescribed routes.
20. Maintenance of depots along prescribed routes.
21. Power of Local Government to make rules.
22. Inspection of depots, vessels and vehicles.
23. Action where proper arrangements not made for assisted emigrants.
24. Cancellation of licences.
25. Penalty for illicit abetment of emigration.

## CHAPTER IV.

## RESTRICTED RECRUITING AREAS.

26. Power to declare restricted recruiting areas.
27. Grant of licences to recruiters.
28. Grant of certificates to garden-sardars.
29. Cancellation and suspension of recruiter's licence.
30. Cancellation of garden-sardar's certificate.
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## CHAPTER V.

## SUPPLEMENTAL.

32. Prohibition of the recruitment of children.
33. Power to detain and return sick persons.
34. Power to return person improperly recruited.
35. Power to enforce the provisions of sections 33 and 34.
36. Magistrates and medical officers who may exercise the powers of the Controller.
37. Power of Governor General in Council to make rules.
38. Powers to extend the scope of this Act.
39. Saving for acts done in good faith under the Act.
40. Bar of jurisdiction of Civil Courts.
41. Repeal of Act VI of 1901 and certain consequences.

## THE SCHEDULE.

*An Act to amend the law relating to emigrant labourers in the tea districts of Assam.*

WHEREAS it is expedient to amend the law relating to emigrant labourers in the tea districts of Assam ; It is hereby enacted as follows :—

CHAPTER I.

PRELIMINARY.

1. (1) This Act may be called the Tea Districts Short title,  
Emigrant Labour Act, 1932. extent and commencement.

(2) It extends to the whole of British India, extent and commencement. including the Sonthal Parganas.

(3) It shall come into force on such date as the Governor General in Council may, by notification in the *Gazette of India*, appoint.

2. In this Act, unless there is anything repugnant Definitions. in the subject or context,—

(a) "tea district" means any of the following districts in the province of Assam, namely,—

Lakhimpur, Sibsagar, Nowgong, Darrang, Kamrup, Goalpara, Cachar and Sylhet, and the Balipara Frontier Tract ;

(b) "tea estate" means an estate, situated in the tea districts, any part of which is used or is intended to be used for the cultivation or manufacture of tea or for any purpose connected therewith ;

(c) "recruiting province" means any province other than Assam ;

(d) "adult" means a person who has completed his sixteenth year, and "child" means a person who is not an adult ;

(e) a "labourer" means an adult working on wages not exceeding fifty rupees a month, but does not include a clerk or domestic servant, or a mechanic, carpenter, mason, bricklayer or other artisan ;

(f) an "assisted emigrant" means an adult who, after the commencement of this Act, has left his home in any recruiting province or in any Indian State, is proceeding through any part of British India to any place in Assam to work as a labourer on a tea estate, and has received assistance from any person,

but does not include any person who at any time within the two preceding years has worked as a labourer on a tea estate ;

(g) "assistance" means the gift or offer of any money, goods or ticket entitling to conveyance to any person as an inducement to such person to proceed to Assam to work as a labourer on a tea estate, and "assisted" and "with assistance" when used with reference to any person mean that such person has received assistance;

(h) an "emigrant labourer" means a person who has last entered Assam as an assisted emigrant and is employed on a tea estate,

and includes any person who, having accompanied an assisted emigrant to Assam as a child dependent on him, has become an adult and is so employed,

but does not include any person who, at any time after his last entry into Assam and after he has become an adult has taken employment not on a tea estate;

(i) the "family" of any person includes the following, if living with him, namely,—

(i) in the case of a male,—his wife and any child and aged or incapacitated relative dependent on him,

(ii) in the case of a married woman,—her husband and any child and aged or incapacitated relative dependent on her or on her husband, and

(iii) in the case of any other woman,—any child and aged or incapacitated relative dependent on her,

and in the case of an emigrant labourer, includes any person who, having accompanied him to Assam as a child dependent on him, has become an adult and is living with him;

(j) "employing interest" means any employer of labourers, or any group or association of such employers; and

(k) "prescribed" means prescribed by rules made by the Governor General in Council.

Appoint-  
ment and  
status of  
Controller  
and Deputy  
Controllers.

3. (1) The Governor General in Council may appoint a person to be Controller of Emigrant Labour, to exercise the powers and discharge the duties conferred and imposed upon the Controller by or under this Act.

(2) The Governor General in Council may also appoint one or more Deputy Controllers of Emigrant

Labour, who shall exercise such of the powers and discharge such of the duties of the Controller as the Governor General in Council may determine.

(3) The Controller may, from time to time and subject to the control of the Governor General in Council, make a distribution of work as between himself and the Deputy Controllers.

(4) The Controller and Deputy Controllers shall be deemed to be public servants within the meaning of the Indian Penal Code.

XLV of  
1860.

4. The Controller shall have power—

Powers of  
the Con-  
troller.

(a) to enter—

(i) all open places on a tea estate,

(ii) any enclosed place on a tea estate where he knows or has reason to believe emigrant labourers are working or are accommodated,

(iii) any office of a tea estate,

(iv) any office or depot maintained by a labour recruiting agency, in Assam or in a recruiting province,

(v) any train, vessel or vehicle which he knows or has reason to believe is being used for the conveyance of assisted emigrants;

(b) to inspect, in any office or depot mentioned in sub-clauses (iii) and (iv) of clause (a), any register or other document required to be kept under this Act;

(c) to carry out in any place mentioned in clause (a) any inquiry which he may deem to be expedient for carrying out the purposes of this Act; and

(d) to do any other reasonable act which may be expedient in the discharge of his duties.

5. (1) In order to meet expenditure incurred in connection with the Controller, the Deputy Controllers and their staff, or under this Act, an annual cess shall be levied, to be called the Emigrant Labour Cess.

Emigrant  
Labour  
Cess.

(2) It shall be paid in respect of the entry into Assam of each assisted emigrant and shall be payable by the employing interest on whose behalf he was recruited.

(3) It shall be levied at such rate, not exceeding nine rupees, for each such emigrant as the Governor General in Council may, by notification in the *Gazette of India*, determine for the year of levy.

(4) The proceeds of the cess shall be credited to a fund, to be called the Emigrant Labour Fund, to be administered by the Governor General in Council.

Power to make rules for the collection of the Emigrant Labour Cess.

6. (1) The Governor General in Council may, by notification in the *Gazette of India*, make rules—

(a) prescribing the agency which shall collect the Emigrant Labour Cess;

(b) prescribing the returns to be submitted to such agency by employers of emigrant labourers, and by persons who recruit or forward emigrant labourers, and the form and date of such returns;

(c) regulating the procedure of the collecting agency;

(d) prescribing the mode of payment of the cess;

(e) determining the date when any sum payable as cess shall be an arrear;

(f) declaring that an arrear of cess may be recovered as an arrear of land-revenue and prescribing the procedure to be followed to secure such recovery; and

(g) generally to secure the quitable collection of the cess.

## CHAPTER II.

### REPATRIATION.

General right of repatriation after three years in Assam.

Right to repatriation on dismissal.

7. Every emigrant labourer, on the expiry of three years from the date of his entry into Assam, shall have the right of repatriation as against the employer employing him at such expiry.

8. (1) Any emigrant labourer who, before the expiry of three years from his entry into Assam, is dismissed by his employer, otherwise than for wilful and serious misconduct, shall have the right of repatriation against such employer.

(2) Where any emigrant labourer is dismissed by his employer before the expiry of three years from his entry into Assam, and his employer refuses or fails to repatriate him, the labourer may apply to the Controller, and the Controller, after such inquiry as he may think fit and after giving the employer an opportunity to be heard, may declare that the labourer has the right of repatriation against such employer.

9. (1) Where an emigrant labourer other than a married woman living with her husband and having no child living with her dies within three years of his entry into Assam, the family of such labourer shall be entitled to be repatriated by the employer last employing him.

(2) Where such deceased labourer leaves a widow, she shall be deemed to be an emigrant labourer in whom a right of repatriation has arisen.

(3) Where there is no such widow, the Controller shall have all powers necessary to enforce the rights of the family under this section, and may take such action as he may deem to be expedient in their interests.

10. (1) An emigrant labourer may, before the expiry of three years from his entry into Assam, apply to the Controller for a declaration of his right to repatriation on any of the following grounds, namely,—

(a) that his state of health makes it imperative that he should leave Assam or

(b) that his employer has failed to provide him with work suited to his capacity, at the normal rate of wages for that class of work, or

(c) that his employer has unjustly withheld any portion of any wages due to him, or

(d) any other sufficient cause.

(2) An emigrant labourer may, before the expiry of one year from his entry into Assam, apply to the Controller for a declaration of his right to repatriation on any of the following grounds, namely,—

(a) that he was recruited by coercion, undue influence, fraud or misrepresentation, or

(b) that he was recruited otherwise than in accordance with the provisions of this Act and the rules made thereunder.

(3) The Controller, after such inquiry as he may think fit and after giving the employer an opportunity to be heard, may declare that an emigrant labourer applying under this section has a right of repatriation against his employer :

Provided that a declaration in pursuance of clause (d) of sub-section (1) may be made by the Controller only and not by any other officer exercising the powers of the Controller by or under this Act.

Power of  
Criminal  
Courts to  
order  
repatriation

11. Where any employer of an emigrant labourer, or any agent of such employer in authority over such labourer, is convicted of any offence committed against such labourer and punishable under Chapter XVI of the Indian Penal Code with imprisonment for one year <sup>XLV of</sup> 1860, or upwards, the convicting Court or the appellate Court or the High Court when exercising its powers of revision may declare that such labourer has a right of repatriation against such employer.

Incidents  
of the right  
of repatria-  
tion.

12. (1) When an emigrant labourer has a right of repatriation against any employer, the employer or his agent shall defray the cost of the return journey of the emigrant labourer and his family from the station nearest the employer's tea estate to the home of the labourer and shall provide subsistence allowances on the prescribed scale for such labourer and his family for the time requisite for him and his family to travel from such estate to his home :

Provided that where the emigrant labourer is a married woman living with her husband who is also an emigrant labourer, her right of repatriation arising under section 7 shall extend only to herself and any children dependent on her :

Provided further that a married woman living with her husband is entitled to be treated as a member of his family notwithstanding that she is herself an emigrant labourer.

(2) In the event of any dispute regarding the cost of the return journey or subsistence allowances, the question shall be referred for decision to the Controller.

The dis-  
charge of an  
employer's  
duty to  
repatriate.

13. (1) Within fifteen days from the date on which a right of repatriation arises to an emigrant labourer, or within such shorter period as the authority declaring such right may determine, the employer concerned shall, subject to any agreement under section 14, make all necessary arrangements for the homeward journey of the labourer and his family, and shall despatch them on their journey :

Provided that an employer shall not be required to make such arrangements for or any payment in respect of any adult person who does not wish to leave Assam.

(2) Where an employer fails to comply with the provisions of sub-section (1), the right of repatriation

of the emigrant labourer concerned shall not be affected, but the employer shall be liable to pay to the labourer one rupee for each day on which he is in default :

Provided that on application made to him by either party the Controller may direct that the labourer shall be paid at a lower rate than one rupee a day or at a higher rate not exceeding two rupees a day, and may also determine the number of days, being a reasonable number regard being had to all the circumstances of the case, for which the payment shall be made.

14. (1) An emigrant labourer may, by agreement with his employer, postpone his exercise of the right of repatriation, or may waive it conditionally or unconditionally, but no such agreement shall be valid unless it is in writing and in the prescribed form and has been made not more than one month before the right of repatriation arises :

Postpone-  
ment, waiver  
and forfei-  
ture of the  
right.

Provided that the Governor General in Council may, by notification in the *Gazette of India*, make rules requiring that in any area such agreement shall be made in the prescribed manner before a prescribed authority and that the prescribed authority, if satisfied that the labourer understands the terms of his agreement, and his rights in regard to repatriation, shall ratify the agreement :

Provided further that after such rules come into force no such agreement shall be valid unless it is so made and ratified.

(2) Where an emigrant labourer having a right to repatriation fails without reasonable cause to proceed on his homeward journey at the time arranged by his employer, the employer may notify the Controller of such failure, and the Controller, after such inquiry as he may think fit and after giving the labourer an opportunity to be heard, may declare that the labourer has forfeited his right of repatriation, and such labourer shall not be entitled to repatriation again as against any employer, save by an order of the Court under section 11.

15. (1) Where the Controller, on information obtained from any source and after such inquiry as he may think fit and after giving the employer concerned an opportunity to be heard, is of opinion that an emigrant labourer is entitled to repatriation under

Power of  
the Con-  
troller to  
enforce the  
provisions  
of this  
Chapter.

any of the provisions of this Chapter, or is entitled to the payment of any sum of money under the provisions of sub-section (2) of section 13, the Controller may direct the employer concerned to despatch such labourer and his family or to pay him the sum of money within such period as the Controller may fix.

(2) If the employer fails to comply with such direction, the Controller may repatriate the labourer and his family or pay him the sum of money out of any funds at the Controller's disposal and shall recover the costs incurred from the employer.

(3) For the purposes of such recovery the Controller may certify the costs to be recovered to the Collector, who shall recover the amount and may recover it as an arrear of land-revenue.

(4) The Controller shall have similar powers in regard to any person in Assam who he knows or has reason to believe is a member of the family of a repatriated emigrant labourer who should have been repatriated along with such labourer.

### CHAPTER III.

#### CONTROLLED EMIGRATION AREAS.

Power to declare controlled emigration areas.

16. (1) Subject to the control of the Governor General in Council, the Local Government of a recruiting province may, by notification in the local official Gazette, declare any area within such province to be a controlled emigration area, and thereupon the provisions of this Chapter shall apply to that area :

Provided that, subject to the like control, the Local Government may, by the same or by subsequent notification, declare that any of the provisions of this Chapter shall not apply in such area, or shall apply subject to such general or special relaxations as may be specified.

(2) A notification under sub-section (1) shall be expressed to take effect from a date not earlier than two months from the date of its publication, and during the said two months licences may be granted under section 17 and such licences shall be dated as being granted on the date on which the notification takes effect and shall not be valid until that date.

17. (1) The Local Government or any District Magistrate empowered by it in this behalf, may grant a licence to any person to act as local forwarding agent in any part of a controlled emigration area, on behalf of an employer or employers of labourers.

(2) Such licences shall be granted only on the application of an employing interest.

(3) No such application shall be entertained unless the Controller has certified that the employing interest making the application has made proper provision, in accordance with section 20 and rules made under section 21, for the forwarding, accommodation and feeding of assisted emigrants on their journey to the tea estates on which they are to be employed.

(4) A local forwarding agent may be granted separate licences on applications by separate employing interests.

18. (1) Whoever arranges with any person in a controlled emigration area that such person shall proceed to Assam with assistance, shall take or send such person, along with the members of his family who are to accompany him to Assam, to the depot of a local forwarding agent licensed for the area in which the arrangement was made, unless the arrangement was made at such a depot.

(2) Whoever arranges with any person in an Indian State that such person shall proceed to Assam with assistance and brings or sends such person and any of the members of his family into any controlled emigration area, shall take or send such person and members to the depot of a local forwarding agent licensed for that area.

(3) At every such depot proper arrangements shall be made for the accommodation and feeding of assisted emigrants and their families.

19. An assisted emigrant and his family shall be forwarded to Assam from the depot of a local forwarding agent by such agent and only by such routes and in such manner as may be prescribed by rules made under section 37, and shall be accompanied on their journey by a competent person deputed by the local forwarding agent.

Maintenance  
of depots  
along pre-  
scribed  
routes.

20. Every employing interest which recruits labour in a controlled emigration area shall maintain or have the right to use depots at reasonable intervals on the prescribed routes by which it forwards assisted emigrants to Assam, for the accommodation and feeding of assisted emigrants and their families.

Power of  
Local Gov-  
ernment to  
make rules.

21. (1) The Local Government may, by notification in the local official Gazette, make rules—

(a) prescribing the form and particulars of licences to be granted to local forwarding agents, and the annual fees, not exceeding ten rupees, which may be levied from persons holding such licences ;

(b) prescribing returns relating to assisted emigrants and their families which shall be made by local forwarding agents and the registers and the form thereof which shall be maintained by such agents.

(c) prescribing the scales of diet which shall be provided for assisted emigrants and their families at depots ;

(d) prescribing the accommodation which shall be provided for assisted emigrants and their families at depots, and the sanitary and medical arrangements at such depots ;

(e) providing for the detention, for a period not exceeding three days, at depots of local forwarding agents of women unaccompanied by their husbands who propose to proceed to Assam as assisted emigrants, and for investigation into their circumstances ;

(f) prescribing the information which shall be supplied by local forwarding agents to assisted emigrants regarding the conditions of life and work on tea estates, and the methods in which it shall be supplied ;

(g) providing for any other matter which in the opinion of the Local Government may be required to give effect to the provisions of this Chapter.

(2) In making rules under clause (b), clause (e), clause (f) or clause (g) of sub-section (1), the Local Government may provide that a contravention thereof shall be punishable with fine which may extend to one hundred rupees.

Inspection  
of depots,  
vessels and  
vehicles.

22. (1) The Civil Surgeon, the District Magistrate or the Sub-Divisional Magistrate, or any Magistrate or police officer not below the rank of Inspector,

deputed by the District Magistrate or the Sub-Divisional Magistrate, may enter a local forwarding agent's depot, or any depot maintained by an employing interest on a prescribed route to Assam, and inspect the accommodation, feeding arrangements, and sanitary arrangements provided for assisted emigrants and their families and all registers and other documents required to be maintained or kept by or under this Act and shall record the results of such inspection in a book to be kept in such depot for the purpose.

(2) The Civil Surgeon or such Magistrate or person deputed may also enter and inspect any vessel, train or vehicle on which assisted emigrants are travelling, or on which he has reason to believe that any assisted emigrant is travelling, whether along a prescribed route or not.

23. If the Governor General in Council is satisfied that an employing interest recruiting assisted emigrants in a controlled area is not making proper provision for the forwarding, accommodation or feeding of such emigrants and their families on their journey to Assam, he may require the Local Government to direct all District Magistrates concerned to cancel or suspend all licences under section 17 held by local forwarding agents on behalf of such employing interest:

Action where proper arrangements not made for assisted emigrants.

Provided that the Governor General in Council shall not make any requisition for the cancellation of licences under this section until he has given the employing interest concerned an opportunity to submit its explanation.

24. (1) The Local Government may cancel wholly or in part any licence granted to a local forwarding agent, and a District Magistrate may cancel wholly or in part any licence granted by him to a local forwarding agent,—

(a) if, in the opinion of the Local Government or of the District Magistrate, as the case may be, such agent has been guilty of misconduct or wilful default or negligence in the discharge of the duties imposed upon him by or under this Act, or

(b) if the employing interest, on whose application the licence was granted, has applied to the Local Government or to the District Magistrate, as the case may be, for the cancellation of the licence, or

(c) if in the opinion of the Local Government or of the District Magistrate, as the case may be, an employer on whose behalf the agent is licensed to act has been guilty of misconduct, or wilful default or negligence in the discharge of the duties imposed upon him by or under this Act :

Provided that no licence shall be cancelled under clause (a) until the holder thereof has or under clause (c) until the holder thereof and the employer concerned have had an opportunity to show cause against the cancellation :

Provided further that a cancellation under clause (c) shall, where the agent is licensed to act on behalf of more than one employer, operate only to prevent the agent from acting on behalf of the employer held guilty.

(2) A local forwarding agent whose licence has been cancelled by a District Magistrate under clause (a) of sub-section (1), or any employing interest on whose behalf he acts, may, within three months from the date of the District Magistrate's order, appeal to the Local Government, whose decision shall be final.

**Penalty for  
illicit abet-  
ment of  
emigration.**

25. Where any person who is required to be taken or sent to a local forwarding agent's depot in any district under section 18 leaves that district on his journey to Assam without being so taken or sent, or, being an assisted emigrant, proceeds to Assam otherwise than in accordance with section 19, or by any route other than a route prescribed under section 37, any person who abets him in so leaving the district or in so proceeding to Assam, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

## CHAPTER IV.

### RESTRICTED RECRUITING AREAS.

**Power to  
declare  
restricted  
recruiting  
areas.**

26. (1) The Local Government of a recruiting province may with the previous sanction of the Governor General in Council, by notification in the local official Gazette, declare any controlled emigration area or any part of a controlled emigration area within such province to be a restricted recruiting area, and thereupon the provisions of this Chapter shall apply to that area :

Provided that, subject to the like sanction, the Local Government may, by the same or by subsequent notification, declare that any of the provisions of this Chapter shall not apply in such area, or shall apply subject to such general or special relaxations as may be specified.

(2) A notification under sub-section (1) shall be expressed to take effect from a date not earlier than two months from the date of its publication, and during the said two months licences may be granted under section 27 or certificates may be granted and endorsements made under section 28, and such licences, certificates and endorsements shall be dated as being granted or made on the date on which the notification takes effect and shall not be valid until that date.

27. (1) Subject to rules made under sub-section (2) and sub-section (3), the District Magistrate may grant a licence to any person to act as recruiter in the whole or any part of his district.

Grant of licences to recruiters.

(2) The Governor General in Council may, by notification in the *Gazette of India*, make rules prescribing the qualifications for persons who may be granted licences under this section.

(3) The Local Government having jurisdiction over any restricted recruiting area may, by notification in the local official Gazette, make rules—

(a) regulating the procedure of the District Magistrate in granting such licences,

(b) prescribing the form and particulars of such licences, and the fees, not exceeding ten rupees, to be paid therefor.

28. (1) Subject to rules made under sub-section (2), the owner or manager of a tea estate may grant a certificate to any person employed on such estate as a labourer or in a position of supervision or management empowering him to recruit labour for such estate in the whole or any part of a restricted recruiting area, and such person shall thereupon be entitled to recruit labour for such estate as a garden-sardar in the area specified :

Grant of certificates to garden-sardars.

Provided that the Local Government having jurisdiction over any restricted recruiting area may, by notification in the local official Gazette, make rules directing that certificates of garden-sardars or of

specified classes of garden-sardars shall not be valid in any district in any such area until they have been endorsed as valid for that district by the District Magistrate or a Magistrate authorized by the District Magistrate in this behalf.

(2) The Local Government of Assam may make rules—

(a) regulating the procedure of owners and managers in granting and withdrawing such certificates,

(b) prescribing the form and particulars of such certificates.

Cancellation and suspension of recruiter's licence.

29. The District Magistrate may, for reasons to be recorded by him, cancel or suspend the licence of a recruiter on the ground of his misconduct or wilful neglect or default in the discharge of the duties imposed on him by or under this Act :

Provided that no licence shall be cancelled under this section until the holder thereof has had an opportunity of showing cause against the cancellation.

Cancellation of garden-sardar's certificate.

30. (1) The District Magistrate of any district in respect of any part of which a garden-sardar holds a certificate may cancel the certificate if he is satisfied that the garden-sardar has contravened any of the provisions of this Act or of the rules made thereunder.

(2) A District Magistrate cancelling a certificate under sub-section (1) shall record his reasons, and shall send intimation of his action to the District Magistrate of every other district in respect of any part of which the certificate was valid and to the person who granted the certificate.

Penalty for illicit recruitment.

31. Whoever, not being a licensed recruiter holding a licence under section 27, or a garden-sardar holding a valid certificate under section 28, or a local forwarding agent holding a licence under section 17, in any part of a restricted recruiting area gives or offers any money or goods to any person, or defrays or offers to defray any travelling expenses of any person, as an inducement to such person to proceed to Assam as an assisted emigrant, shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

## CHAPTER V.

## SUPPLEMENTAL.

32. (1) No person shall in any way assist a child to proceed from any recruiting province to Assam, to work in any capacity on a tea estate, unless such child is accompanied by a parent or other adult relative on whom he is dependent, and no person shall so assist a married woman who is living with her husband unless she is so proceeding with the consent of her husband.

(2) Any person who knowingly contravenes the provisions of this section shall be punishable with imprisonment which may extend to six months, or with fine which may extend to five hundred rupees, or with both.

33. (1) Where it appears to the Controller that any person proceeding to a tea garden with assistance, or any member of the family of such person, is suffering from an infectious or contagious disease, or is not in a fit state of health to proceed on his journey, the Controller may—

(a) detain such person and his family,  
 (b) send the sufferer for medical treatment to a hospital or dispensary or other suitable place, and  
 (c) cause all necessary arrangements to be made for the accommodation and feeding of the other members of the party so detained,  
 and all arrangements for such detention and treatment shall be made by and at the cost of the employing interest on whose behalf such person was recruited.

(2) Where it appears that a sufferer detained under sub-section (1) is not likely to be in a fit state of health to proceed on his journey within a reasonable time, the Controller may direct that he and the other members of his party detained with him shall be returned to the home of the person proceeding with assistance by and at the cost of the employing interest on whose behalf such person was recruited.

34. Where it appears to the Controller after such inquiry as he thinks fit to make that any person proceeding to a tea estate with assistance—

(a) has been recruited by coercion, undue influence, fraud or misrepresentation, or

(b) has been recruited or forwarded otherwise than in accordance with the provisions of this Act and the rules made thereunder,

the Controller may direct that such person and his family shall if such person so desires be returned to his home by and at the cost of the employing interest on whose behalf he was recruited.

Power to enforce the provisions of sections 33 and 34.

35. (1) If an employing interest fails to make arrangements to the satisfaction of the Controller for the detention or treatment of any person detained under sub-section (1) of section 33, the Controller may himself make such arrangements and defray the cost out of any funds at his disposal.

(2) In making a direction under sub-section (2) of section 33 or under section 34 the Controller may fix a period within which such person and family shall be forwarded by the employing interest concerned, and shall send a copy of his direction to the employing interest concerned, and to the nearest agent, if any, of such employing interest in the province where such person then is.

(3) If the employing interest fails to comply with the direction within the time fixed, the Controller may cause such person and his family to be returned to his home and defray the costs out of any funds at the Controller's disposal.

(4) The Controller shall recover any costs incurred by him under this section from the employing interest concerned, and for the purposes of such recovery may certify the costs to be recovered to the Collector of any district in which a tea estate belonging to the employing interest concerned, or to any member thereof, is situated, and the Collector shall recover the amount and may recover it as an arrear of land-revenue.

(5) Any costs so certified may, where the employing interest concerned is a group or association of employers, be recovered from any one of such employers.

Magistrates and medical officers who may exercise the powers of the Controller.

36. (1) Subject to the provisions of sub-section (3) of section 10, any District Magistrate in Assam may exercise in respect of his district any power which the Controller by or under this Act could exercise in such district.

(2) The Controller may transfer any proceeding under Chapter II pending before him to the District Magistrate having jurisdiction under sub-section (1) to dispose of it.

(3) The Local Government of a recruiting province may invest a District Magistrate or a Sub-Divisional Magistrate and the Local Government of Assam may invest a Sub-Divisional Magistrate with any of the powers of the Controller under section 4 or section 33 or section 34 or section 35 in respect of his district or subdivision, as the case may be.

(4) The Local Government may invest any medical officer not below the rank of Assistant Surgeon with any of the powers of the Controller under section 33 and section 35.

37. (1) The Governor General in Council may, by notification in the *Gazette of India*, make rules—

(a) regulating the procedure of the Controller and of persons exercising the powers of the Controller in the exercise of their powers under this Act ;

(b) where there are more authorities than one exercising any of the powers of the Controller in the same area, regulating the exercise of their powers by such authorities ;

(c) prescribing scales of subsistence allowances for the purposes of section 12 ;

(d) prescribing the form of agreements under section 14 ;

(e) prescribing the routes by which assisted emigrants may be forwarded from districts in controlled emigration areas to tea districts ;

(f) prescribing the manner in which assisted emigrants and their families shall be forwarded to Assam from the depots of local forwarding agents ;

(g) prescribing the action to be taken by local forwarding agents and by persons in charge of depots on prescribed routes where an assisted emigrant or a member of his family appears to be suffering from infectious or contagious disease or where an assisted emigrant appears to have been recruited by coercion, undue influence, fraud or misrepresentation, or to have been recruited or forwarded otherwise than in accordance with the provisions of this Act and the rules made thereunder ;

Power of  
Governor  
General in  
Council to  
make rules.

(h) directing that employers of emigrant labourers shall keep registers of such labourers and their families, and prescribing the form of such registers;

(i) directing that employing interests which recruit emigrant labourers shall keep registers of such labourers, and their families, and of their journeys to and from Assam, and prescribing the form of such registers;

(j) requiring employers of emigrant labourers and employing interests which recruit emigrant labourers to submit such return in respect of such labourers as the Governor General in Council may think expedient for carrying out the purposes of this Act; and

(k) generally, to carry out the purposes of this Act.

(2) The Local Government of Assam may, by notification in the local official Gazette, make rules requiring employers of labourers on tea estates to submit returns of wages and earnings of labourers employed by them.

(3) In making rules under sub-section (1), the Governor General in Council, and in making rules under sub-section (2) the Local Government, may provide that a contravention thereof shall be punishable with fine which may extend to five hundred rupees.

Powers to extend the scope of this Act.

38. (1) The Governor General in Council may, by notification in the *Gazette of India*, declare that the provisions of this Act shall apply in respect of any lands and premises in Assam other than tea estates, and thereupon the provisions of this Act shall apply in all respects to such lands and premises as if they were tea estates.

(2) Subject to the control of the Governor General in Council, the Local Government of Assam may, by notification in the local official Gazette, declare that the provisions of this Act shall apply in any area in Assam other than the districts specified in clause (a) of section 2, and thereupon the provisions of this Act shall apply in all respects to such area as if it were a tea district.

Saving for acts done in good faith under the Act.

39. No suit, prosecution or other legal proceeding shall lie against any person for anything which is in good faith done or intended to be done under this Act.

40. No Civil Court shall have jurisdiction—  
 (a) to deal with or decide any question which the Controller is, by or under this Act, empowered to deal with or to decide, or

(b) to enforce any liability incurred under this Act.

41. (1) The enactments mentioned in the Schedule are hereby repealed to the extent specified in the fourth column thereof.

(2) The Assam Labour Board constituted under section 116A of the Assam Labour and Emigration Act, 1901, is hereby dissolved.

(3) All accumulations of the cess leviable under section 116E of the said Act are hereby transferred to the credit of the Emigrant Labour Fund, subject to the payment of all outstanding claims payable out of the said accumulations.

#### THE SCHEDULE.

(See Section 41.)

Year.	No.	Short title.	Extent of repeal.
(1)	(2)	(3)	(4)
1901.	VI ..	The Assam Labour and Emigration Act, 1901.	The whole.
1908.	XI ..	The Assam Labour and Emigration(Amendment) Act, 1908.	The whole.
1915.	VIII ..	The Assam Labour and Emigration (Amendment) Act, 1915.	The whole.
1920.	XXXVIII ..	The Devolution Act, 1920.	In Part I of the First Schedule, the entry relating to the Assam Labour and Emigration Act, 1901 (VI of 1901).
1927.	XXXI	The Assam Labour and Emigration (Amendment) Act, 1927.	The whole.